



RESERVE COMPONENTS OF THE UNITED STATES MILITARY



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**The Reserve Components of the United States Military
With Particular Focus on the Reserve Components of the
United States Army
The Army National Guard and United States Army Reserve
—An Executive Primer—**

INTRODUCTION

It is impossible to overstate the importance of the Reserve Components to the United States Military and to the nation. As we begin the 21st century, reliance on the Reserve Components for both external military operations and internal domestic missions is greater than it has ever been. And as we look to the future it is a very safe bet that the current level of dependence will continue with a very good possibility it will increase even further. So it behooves all involved in force management to study these vital components and understand the legal authority for their existence, their historical development, current organizational and operational structure, statutory categories and the authorities for their mobilization, as well as their unique characteristics, capabilities, roles, and functions.

As you read this primer keep in mind the following questions concerning the reserve forces. Also, consider possible approaches to prevent the issues they raise from occurring and, if they should occur, how to resolve them.

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First, is the term “Reserve” Components appropriate any longer considering the utilization of those forces today? Arguably there is no longer a force in reserve, certainly not strategic reserve. Would the term “Operational” Reserve more accurately depict the form, function, and overall character of today’s reserve forces not to mention how they are currently being utilized?

Second, have the categories of reserve forces been overcome by the dramatic changes in the global strategic environment and the resultant expanded scope of reserve component employment? Are the classifications Ready, Standby, and Retired Reserve and their respective subsets outdated? A 2001 Quadrennial Defense Review (QDR) directed study entitled “Review of Reserve Component Contributions to National Defense” suggests that there is a continuum of service applicable to all components, active and reserve, that ought to be established. This continuum would include, not only the traditional statutory minimum of 39 days of service currently mandated annually for a reserve Soldier and the 365 days required of a full time active or reserve Soldier, but would also incorporate individual service participation from 0 to 38 days as well as from 40 to 365 days. Would a continuum of service structure provide greater flexibility in recruiting, retaining, and managing military forces and provide momentum toward more effective and more efficient management of a seamless force?

Third, do the current mobilization statutes in Title 10 of the United States Code need to be amended to correlate with the current and anticipated future operational deployment

requirements of the Reserve Components? Specifically, do the mobilization periods for the Presidential Reserve Call Up (270 days) and for Partial Mobilization (24 consecutive months, but currently implemented by Department of Defense policy letter as 24 cumulative or total months) need to be lengthened? Should the policy letter be withdrawn and the statutory 24 consecutive month period for partial mobilization be implemented?

And lastly, can the Reserve Components be over utilized? Conventional wisdom has it that not mobilizing the Reserve Components in significant numbers was one of the mistakes in the prosecution of the Vietnam War that contributed to the loss of popular support for United State involvement in the conflict. Is there a risk that employing significant numbers of Reserve Components in current and future protracted conflicts and incurring casualties without achieving the objectives of our involvement could lead to the same resultant loss in public support?

Historical Evolution and Legal Authority

The Reserve Components of the United States have a long and storied history of service. In fact, the lineage of the Army National Guard precedes that of the Active Components extending back to the colonial period. Thus, the foundation of our current Reserve Components predates the formation of the United States and has its roots as far back at least to The First Muster in 1636 as depicted in Figure 1. In form these were citizen Soldiers whose primary function was self-defense or self-preservation.

The First Muster



SALEM, MASSACHUSETTS, 1636

Figure 1

When the nation was formed in 1781 following the Revolutionary War, the Articles of Confederation (the “first” Constitution) gave Congress the authority to build a Navy and to

raise an Army by requisitioning troops from the individual states in proportion to their population. The Articles required, however, that "... every State shall always keep up a well-regulated and disciplined militia..." In this regard the Articles reflected a common concern of the dangers associated with large standing professional military forces and, at the same time, demonstrated confidence and reliance on the militia or citizen Soldiers for defense.

This simultaneous pause for large standing armies and reliance on militia was incorporated in the checks and balances distribution of powers in the Constitution of the United States in 1787. While Article II of the Constitution, Executive Powers, designates the President as Commander in Chief of the Army, Navy, and the Militia, when federalized, nevertheless, the power to raise and support Armies, to provide and maintain a Navy, to make rules and regulations governing the land and naval forces, to provide for calling forth the Militia, and the power to provide for organizing, arming, and disciplining the Militia, as well as governing the federalized Militia, was granted to the Congress in Article I, Legislative Powers. Additional evidence of the preference for dependence on militia forces is demonstrated in The Militia Act of 1792. Through this legislation the Congress exercised its Article I constitutional authority to provide for utilization of the militia by granting the President the legal power to "call out" the militia in the event of invasion, insurrection, and to enforce federal law.

Throughout most of the 19th century the United States maintained a relatively small force of regulars and continued to rely on the militia and volunteers for augmentation when circumstances dictated the need for a larger force. This military posture eventually was referred to as the "expansible Army" concept in Brevet Major General Emory Upton's post Civil War incomplete composition entitled "The Military Policy of the United States" published in 1904. As a result of the Civil War by 1865 the Army had grown to more than 1,000,000 volunteer Soldiers. However, the draw down post conflict was rapid and within a year the level fell to just over 11,000. And by late 1867 most of these Soldiers had been discharged. Following a post Civil War unsuccessful attempt to increase the regular Army to a level of 80,000 Soldiers, Congress agreed to an end strength of 54,302. During the quarter century prior to the Spanish-American War (1898), the regular Army averaged about 26,000 officers and men. Post Spanish American War, the United States turned the corner into the 20th century with a Regular force of about 66,000 and a Militia force of about 117,000. In 1902 Congress authorized an Army of 100,000, but between then and 1911 the army averaged about 75,000.

With the emergence of the United States as a global power following the Spanish American War and the realization that this new responsibility demanded a more effective and efficient military, Secretary of War (1899-1904), Elihu Root, initiated major reform of the military. With the approval of Congress, Root streamlined Army lines of authority establishing both a Chief of Staff and a General Staff. And to inculcate Army transformation, Secretary Root established the Army War College to educate Army leadership. Root's reformation efforts were not limited to the Regular Army. In 1901 Secretary Root proposed legislation to

Congress intended to improve the effectiveness and efficiency of the Militia and promote better operational integration of the Regular Army and Militia. The Congress responded with legislation to achieve Root's objectives and passed the Militia Act of 1903 (commonly referred to as the Dick Act after its sponsor Congressman Charles Dick, chairman of the House Militia Affairs Committee and member of the Ohio militia who served in Cuba during the Spanish American War) initiating the federalization of the Militia. As watershed legislation for the Militia, the Dick Act abrogated the outmoded 1792 Militia Act. The Dick Act provided authority for the President to call up Militia for a nine month period, but restricted their deployment to the borders of the United States. Additionally, the Act facilitated integration of Regulars and Militia through enhanced joint training and maneuvers and by providing all important federal funds to structure and equip the militia to be compatible with the Regular Army. And, significantly, the Dick Act promoted improvement of Militia readiness by mandating monthly drills and annual training.

In 1908 the Dick Act was amended to remove the call up time constraint and to give the President the authority to determine the duration of the call up. The 1908 amendments also eliminated the preclusion on Militia overseas deployment, established the Militia as the primary reserve for the Army giving the Militia precedence over federal volunteer forces, and created the Division of Militia Affairs in the War Department as the peacetime channel of communication between the states/territories/District of Columbia and the Department of the Army [The Division of Militia Affairs continues today as the National Guard Bureau (NGB)]. Furthermore, the United States Army Reserve traces its genesis to the 1908 amendments to the Dick Act. Formed initially as a Medical Reserve Corps, the Army Reserve has evolved as the third leg of the Army component triad to a present day force structure largely composed of combat support and combat service support organizations.

Notwithstanding the Dick Act and its amendments, the relationship between the Regulars and the Militia remained tenuous at best. The Regulars suspicion of Militia competence and Militia resentment of what was deemed undue federal encroachment of state prerogatives sustained continuous friction between the parties and prevented mutual understanding and unity of effort toward the common goal of national security. This tension reached its breaking point in 1915. The Army General staff stressed with the pressures of simultaneously planning and preparing for potential involvement in World War I and border unrest with Mexico and extremely leery of Militia competence and concerned about the legality of extraterritorial use of Militia (A Judge Advocate General opinion concluded, notwithstanding Congressional authorization in the 1908 amendments to the 1903 Militia Act, that employing the Militia beyond United States borders was illegal) proposed the establishment of a standing volunteer federal force as the principal reserve in support of the Regular Army. This "Continental Army" plan demoted the Militia from primary Army reserve status and relegated them solely to the delineated Constitutional roles of repelling invasions, suppressing insurrections and enforcing law. Concerns over cost and the contradiction of a large federal force within a democracy among others thwarted the plan in Congress. However, Congress acknowledged the Regular Army's concern about Militia

competence and responded with the National Defense Act of 1916. Arguably, this legislation concluded the root initiative to federalize the Militia. The Act mandated the use of the term Guard vice Militia, upped the ante on the 1903 Militia Act drill structure from 24 to 48 inactive duty training periods annually and from 5 days to 15 days of annual training (Guardsmen were now paid for both converting an annual subsidy to an appropriation), and established a federal officer and enlisted reserve corps as well as the Reserve Officers' Training Corps (ROTC) program. Additionally and noteworthy, the Guard strength was increased significantly by the 1916 Act to the 430,000 level. Post World War I attempts to revisit the "Continental Army" concept were to no avail and in 1920 the Congress amended the National Defense Act of 1916 reasserting the Guard's primary reserve status and federal authority over the Guard.

The Division of Militia Affairs established in the 1908 amendments to the Dick Act was designated an autonomous Militia Bureau by the 1916 National Defense Act and remained so until 1933 amendments to the 1916 Act changed the designation to the current title of National Guard Bureau or NGB. Perhaps more importantly, the 1933 amendments resolved or clarified the Guard role dichotomy – state/federal – issue by creating "two" National Guards. Henceforth there would be the National Guard of the several States and the National Guard of the United States. The former would be responsive to state authority and the latter to federal authority.

Post World War II saw significant adjustment to the military structure of the United States. The National Security Act (NSA) of 1947 integrated the War Department, Department of the Navy, and the brand new Department of the Air Force into the National Military Establishment and reaffirmed civilian control over the military by designating a civilian Secretary of Defense to head the reorganized national military structure. Amending legislation in 1949 renamed the organization as the Department of Defense and further empowered the Secretary of Defense over the military departments. Furthering the intent of the legislation to promote unity of effort among the military departments, the 1949 amendments also codified the World War II Joint Chiefs of Staff (JCS) structure, provided the JCS a Joint Staff (JS), and established the position of Chairman of the JCS (CJCS) [Note: the CJCS did not gain a vote on the JCS until the 1958 amendments to the NSA]. The Goldwater-Nichols Act of 1986 elevated the CJCS to "First among Equals" within the JCS designating the CJCS as the principal military advisor to the President and the Secretary of Defense.

With the aftermath of World War II came the Cold War and for the first time in the history of the United States reliance on a large standing Active Army in peacetime. Significant dependence was placed on Reserve Components, especially Army Reserve Components, by their incorporation in war plans in the vital role as a strategic reserve with an anticipated mobilization period to elevate them to operational status. Notwithstanding this reliance on Reserve Components, the Vietnam War was prosecuted largely with Active Component forces with minimal participation by the Reserve Components. At the time the civilian

leadership, focused on conveying the intention of limited engagement in Southeast Asia, believed that mobilizing the Reserve Components in significant numbers would send the wrong message to the American people. Needless to say, the decision not to call-up and employ Reserve Forces played havoc with existing Army plans. As a result of increasing force requirements in Vietnam, the one year deployment rotation policy, and the inability to utilize Reserve Forces, the Army faced the undesirable alternative of creating new structure with the concomitant lack of experience and requirement for training and equipment. The Chief of Staff of the United States Army at the time, General Harold Johnson, upon learning of the determination not to use Reserve Forces, candidly and directly informed the Secretary of Defense of the negative consequences of that decision saying “Mr. McNamara I can assure you of one thing, and that is that without a call-up of the Reserves the quality of the Army is going to erode and we’re going to suffer very badly.” Arguably history confirmed the General’s prediction.

The watchwords following Vietnam, principally attributed to then Army Chief of Staff General Creighton Abrams, were that we would never go to war again without the Reserve Components. The Department of Defense Total Force Policy directing complete integration of Active and Reserve Forces was promulgated. Draft legislation was repealed and the Volunteer Army (VOLAR) was established. In 1976 Presidential Selected Reserve Call-Up (PSRC) legislation was enacted providing the President authority to involuntarily call-up as many as 50,000 (subsequently raised to 100,000) Selected Reserve service members for a period of 90 days without declaring an emergency. PSRC authority was first exercised in 1990 prosecuting Desert Shield and Desert Storm where as never before tens of thousands of Reserve Soldiers were mobilized. This unprecedented use of the Reserve Components during the first Iraq War continued throughout the 1990s in Haiti, Bosnia, Kosovo, and Southwest Asia and continues presently in the Balkans as well as in Operation Noble Eagle (ONE), Operation Enduring Freedom (OEF), Operation Iraqi Freedom (OIF), and the Multinational Force and Observers (MFO) in the Sinai.

Notwithstanding this significant reliance on Reserve Forces for the past decade and a half, Secretary of Defense Rumsfeld in 2003 directed marked reduction of involuntary mobilization of Reserve Components. A Secretary of Defense memorandum dated 9 July 2003 directs the elimination of involuntary mobilization of Reserve Components during the first 15 days of a rapid response operation and restricts involuntary mobilization of Reserve units to one year in every six years. To enable this reduction in involuntary mobilization of Reserve Components, Secretary Rumsfeld directed a rebalance of Active and Reserve Component capabilities. Combat support and combat service support force structure largely resident in the Reserve Components by design to preclude the underutilization of Reserve forces as in Vietnam are realigning to the Active Component. This directed rebalance will not happen overnight and as of November 2005 approximately 40% of United States forces conducting Operation Iraqi Freedom are provided by the Reserve Components.

Reserve Component Identification, Command & Control, and Integration

Currently there are seven Reserve Components in the five branches of the three Military Departments. (Figure 2) The Reserve Components within the Department of the Army are the United States Army Reserve and the Army National Guard. The Department of the Navy is complemented by the Navy Reserve, the Marine Corps Reserve, and the Coast Guard Reserve. The Coast Guard is governed by the Department of Homeland Security until federalized then control of the Coast Guard transitions to the Department of Defense and specifically to the Department of the Navy. The Department of the Air Force includes the Air Force Reserve and the Air National Guard. The Air National Guard and the Army National Guard comprise the National Guard and are responsible to both state and federal authority.

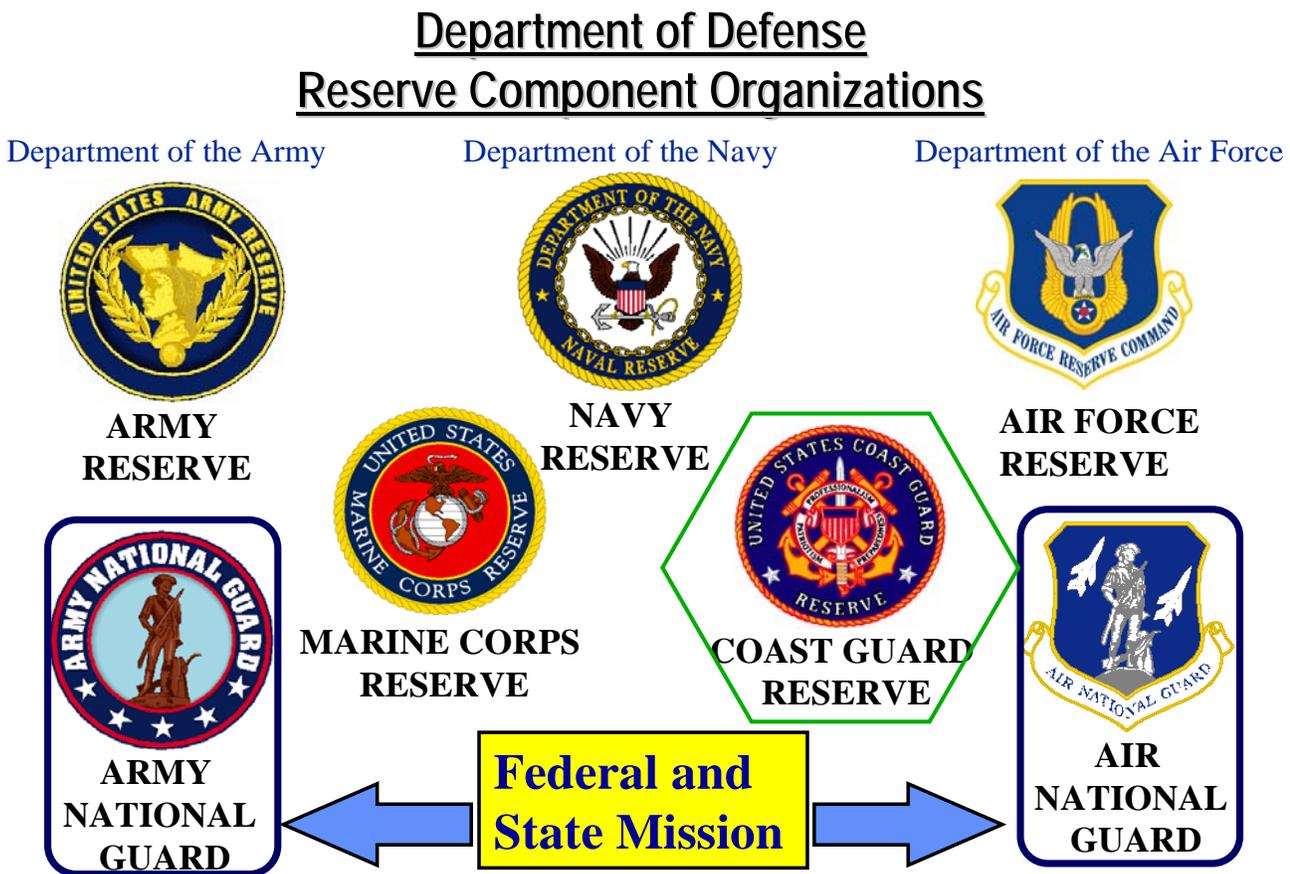


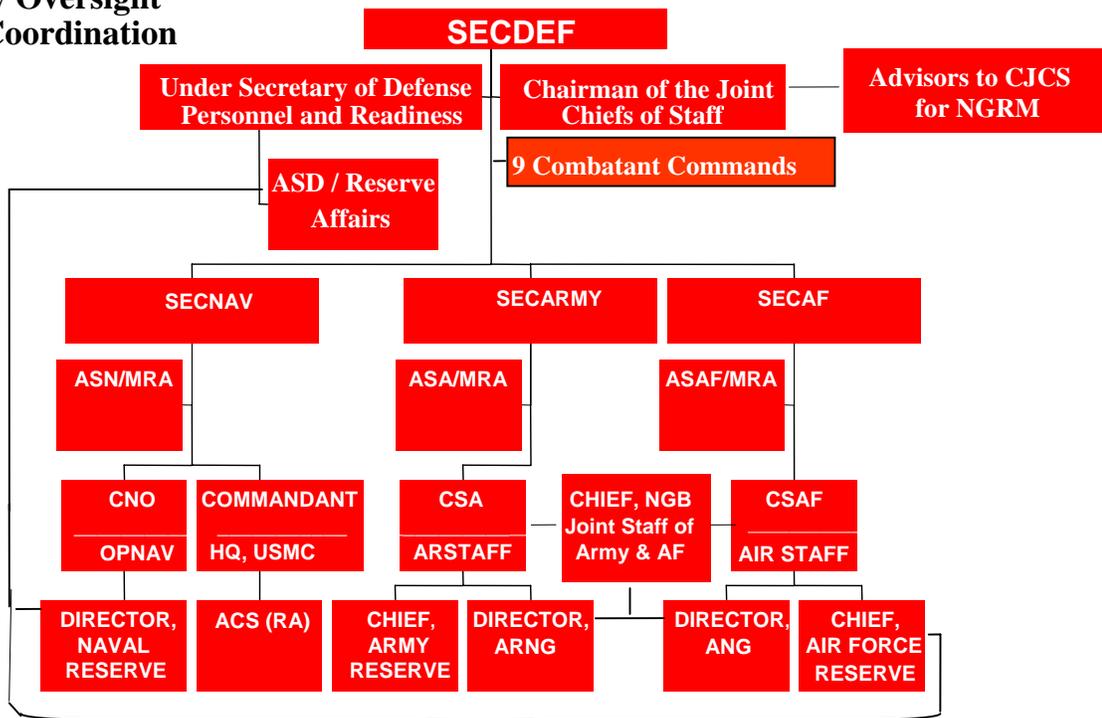
Figure 2

While unique in their own right, the Reserve Components are subject to the same chain of command structure as the Active Components. Pre-mobilization, however, the National Guard is responsible to the authority of the individual States and Territories. The other five Reserve Components are controlled by their respective military departments. Post-mobilization all Reserve Components to include the Army and Air National Guard are responsible solely to federal government authority.

The President exercising the Constitutional authority of Article II Section 2 – “The President *shall be* the Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, *when called into the actual Service of the United States...*” - commands and controls both the Active and Reserve Components, to include the National Guard when federalized. This authority is exercised through the Secretary of Defense. The chain of command runs from the Reserve Component Chiefs or Directors through their respective Active Component Chiefs of Staff to the Secretaries of the Military Departments who report directly to the Secretary of Defense. (Figure 3)

Control of Reserves

**Policy Oversight
and Coordination**



**Recruit, Organize, Supply, Equip, Train,
Service, Mobilize and Demobilize**

Figure 3

By law one of the Assistant Secretaries of Defense must be an Assistant Secretary of Defense for Reserve Affairs [ASD(RA)]. (see Title 10 USC § 138(b)(2) - *One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Reserve Affairs. He shall have as his principal duty the overall supervision of reserve component affairs of the Department of Defense.*) Similarly, each of the Military Department heads has an Assistant Secretary of their respective department for manpower and reserve affairs. The Office of the Assistant Secretary of Defense for Reserve Affairs reports to the Undersecretary of Defense for Personnel and Readiness. The ASD(RA) office consists of a Principal Deputy, a Senior

Enlisted Advisor, and five Deputy Assistant Secretaries of Defense in the functional areas of manpower and personnel; materiel and facilities; resources; readiness, training, and mobilization; and military assistance to civil authorities. The staff group for Employer Support of the Guard and Reserve (ESGR) is also an integral part of the ASD(RA) office. The ESGR organization serves as a critical information and mediation link between Reserve Component Soldiers and their employers. Employer support for their employees' Reserve military responsibilities is essential for the Department of Defense to execute its national security mission. ASD(RA) also maintains a coordination link with the Reserve Forces Policy Board (RFPB) (for additional information on the RFPB to include membership go to <http://www.defenselink.mil/ra/rfpb/>). For almost 50 years the RFPB, established by law (see Title 10 USC § 10301), has served as the principal policy advisor to the Secretary of Defense on Reserve Component matters.

The Department of the Army is structured similarly to the Department of Defense for management and control of Army Reserve forces. The Secretary of the Army (Sec Army) is served by an Assistant of the Army for Manpower and Reserve Affairs [ASA(M&RA)] as the principal advisor to the Secretary for Army Reserve Component matters. Analogous to the Department of Defense RFPB, the Army Reserve Forces Policy Committee (ARFPC) (for additional information on the ARFPC to include membership go to http://www.asamra.army.pentagon.mil/functional_areas/arfpc.html) is the principal policy advisor to the Secretary of the Army on Reserve matters. Army also has an additional organization focusing on Reserve Component issues known as the Reserve Component Coordination Council (RCCC) (for additional information on the RCCC go to http://www.asamra.army.pentagon.mil/functional_areas/arfpc.html and review the Charter). The RCCC led by the Vice Chief of Staff Army (VCSA) and the ASA(M&RA) tasks and tracks the implementation of Reserve Component initiatives. Whereas the ARFPC is a policy promulgation body, the RCCC is an action body. Finally, the Department of the Army has a Reserve Affairs Integration Office resident in the Office of the Director of the Army Staff (DAS). The principal mission of the RAIO is to coordinate, integrate, and track Army initiatives in support of attaining the Army Campaign Plan objective of "Optimizing Reserve Component Contributions". In furtherance of this mission, the RAIO supports the AC/RC Integration Process depicted in the architecture shown in Figure 4.

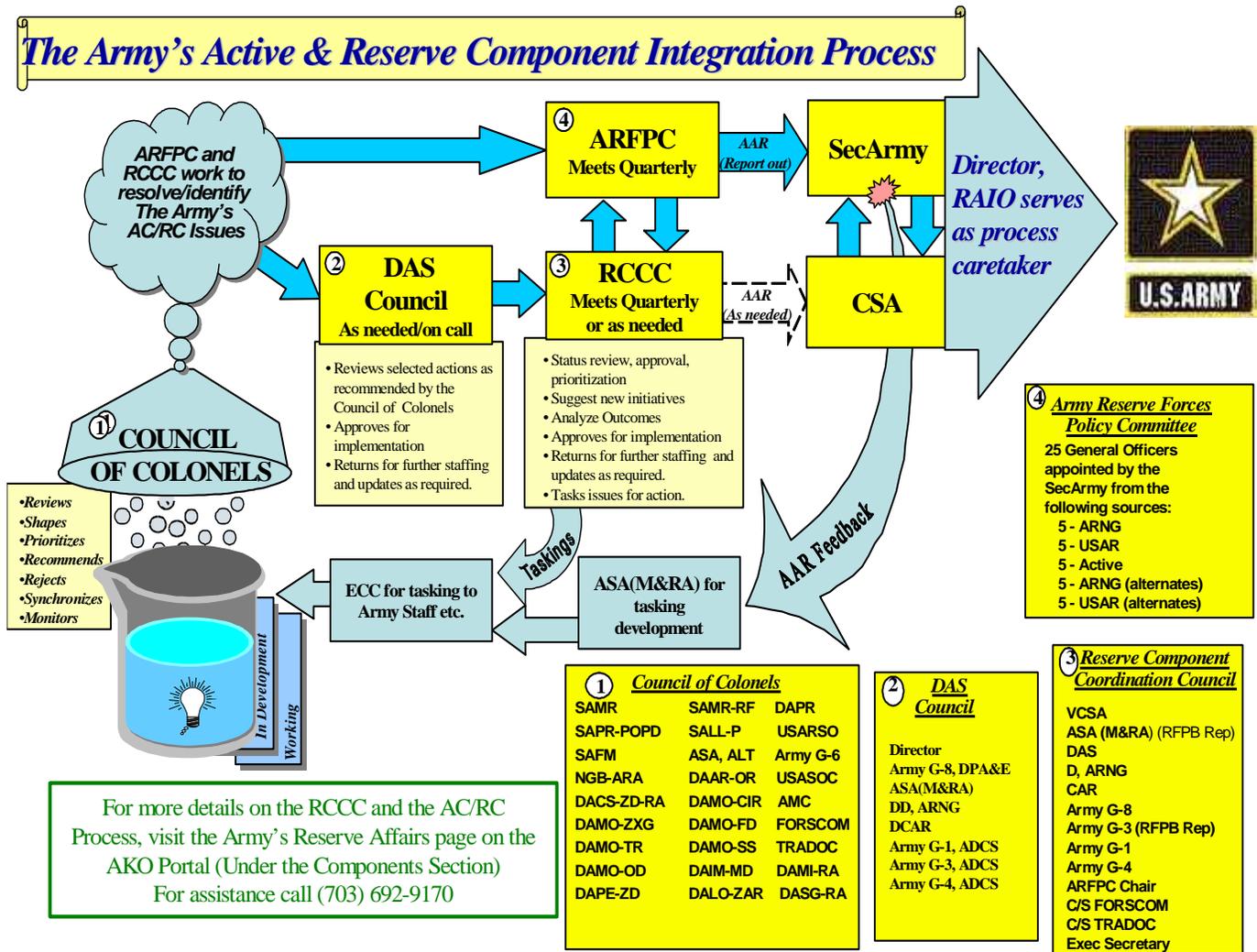


Figure 4

Reserve Component Personnel Categories

All Reserve Component Soldiers fall into one of three primary personnel categories – the Ready Reserve, Standby Reserve, and the Retired Reserve (Title 10 USC § 10141) (Figure 5a, 5b. & 5c). The Ready Reserve is divided into three sub-categories – the Selected Reserve, Individual Ready Reserve (IRR), and the Inactive National Guard (ING) – and has an authorized strength of 2,900,000 Soldiers (10 USC § 10142(b)). The Selected Reserve sub-category is further partitioned into Troop Program Units (TPUs), Active Guard/Reserve (AGR) Soldiers, and Individual Mobilization Augmentees (IMAs).

The term “Selected” Reserves identifies those units and individuals of the Ready Reserve that have been characterized by their respective military department, and endorsed by the Chairman, Joint Chiefs of Staff, as so indispensable at the outset of military conflict that they are given priority for resources, that is their war fighting importance requires preferential

preparedness treatment. Troop Program Units are units in the Army Reserve and the Army National Guard. Active Guard Reserve (AGR) Soldiers are Reserve Component Soldiers on active duty for all intents and purposes just like Active Component Soldiers. Individual Mobilization Augmentees are fully trained personnel assigned to critical positions in military organizations or civilian governmental agencies for utilization upon mobilization. IMAs, especially drilling IMAs (DIMAs), provide a very valuable and unique augmentation support capability to a major command, senior staff, or government agency during periods of increased operational activity. As a result of prior drilling duty in the command, staff, or agency augmentation billet, IMAs when mobilized bring with them prior experience with the responsibilities of the position and familiarity with the personnel and processes of the organization. Consequently, IMAs arrive with a very shallow learning curve and can basically hit the ground running requiring very little guidance and direction.

The Individual Ready Reserve and the Inactive National Guard round out the Ready Reserve category. These two sub-categories encompass all Ready Reserve Soldiers not in the Selected Reserve. The IRR is composed primarily of Soldiers fully trained in their military occupational specialty (MOS) who have some portion of their obligatory service time remaining (10 USC § 651). However, the IRR also includes personnel in the Delayed Entry Program (DEP), the Armed Forces Health Program (AFHP) Stipend Program, individuals detailed to units who are performing without pay waiting for initial activity duty training (IADT), and personnel who have volunteered to respond to a Presidential Reserve Call-up (PRC). A subcategory has been established in the IRR called the "Individual Warrior (IW) Category". IW soldiers are intensively managed both for enhanced readiness training and career progression. The IW effort in conjunction with other program improvements is intended to establish the IRR as "the Army's leading prior service talent bank". The Inactive National Guard category is applicable, currently, solely to Army National Guard members who, for a limited period of time, are incapable of satisfying their military responsibilities. ING personnel do not drill and are not paid. In order to retain their status, ING members are required to muster annually with their assigned unit and upon mobilization they mobilize with their unit.

The Standby Reserve consists of individuals who because of temporary hardship or disability or identification as key personnel are relieved of training responsibilities and unit affiliation. The key personnel designation refers to Ready Reserve Soldiers moved to standby status because of the national security importance attached to their civilian position. Examples of key personnel are members of Congress and major staff positions like the DoD Inspector General (IG). Standby Reserve personnel are fully trained and subject to recall under full mobilization. Soldiers in this category are further identified as either active or inactive. The distinction between the Active Status List and the Inactive Status List is one of legal obligation. Inactive status individuals are under no legal obligation to maintain a military affiliation. They offer their skills voluntarily.

The final category is the Retired Reserve. Reserve Soldiers drawing retired pay based upon active and/or reserve service or qualified to receive retired pay at age 60 make up the majority of this category along with disabled and other unique status Soldiers. Reserve retirees as well as Active retirees with 20 years of active duty are subject to recall involuntarily anytime and all other Reserve retirees are subject to recall upon a Congressional Declaration of War or National Emergency with the caveat that a preliminary determination that there is a deficient number of qualified active status Reserve Soldiers or Inactive National Guard Soldiers. Retirees are a valuable source of experienced Soldiers available to reinforce Active or Ready Reserve organizations, free up Active or Ready Reserve Soldiers for other missions, or independently conduct operations. In the event they are needed during mobilization, every military retiree, Active and Reserve, is classified by age, time since retirement, and disability status. Mobilization Category I includes retirees less than 60 years of age, within five years since retirement, and no disability. Mobilization Category II includes retirees less than 60 years of age, beyond five years since retirement, and no disability. And Mobilization Category III incorporates the remaining retirees to include those disabled. As a part of the mobilization base, Department of Defense pre-mobilization planning should anticipate utilization of retirees in Categories I and II and pre-designate them for specific post mobilization billets (so called hip pocket orders). Table 1 identifies personnel strength of the seven Reserve Components by Reserve Component Category (breaking out the Ready Reserve into its component parts of Selected Reserve, Individual Ready Reserve, and Inactive Guard) at the beginning of FY 2006. Table 2 presents the same data with a breakout of the Selected Reserve into its component parts of units, Active Guard and Reserve (AGR) Soldiers, and Individual Mobilization Augmentees (IMA) as well as a break out of the Standby Reserve into active and inactive categories.

Reserve Component Categories

- **Ready Reserve**
 - Selected Reserve
 - Troop Program Units (TPUs)
 - Active Guard/Reserve (AGR)
 - Individual Mobilization Augmentees (IMA)
 - Individual Ready Reserve (IRR)
 - Inactive National Guard (ING)
- **Standby Reserve (Active and Inactive)**
- **Retired Reserve (Mob Categories I, II, & III)**

Figure 5a

Reserve Component Categories with All RC FY05 Year End Strengths

- **Ready Reserve (1,113,427)**
 - Selected Reserve (829,005)
 - Troop Program Units (TPUs) (733,119)
 - Active Guard/Reserve (AGR) (68,872)
 - Individual Mobilization Augmentees (IMA) (27,014)
 - Individual Ready Reserve (IRR) (282,917)
 - Inactive National Guard (ING) (1,505)
- **Standby Reserve (22,773)**
- **Retired Reserve (634,524)**

Figure 5b

**Reserve Component Categories
with ARNG & USAR FY05 Year End Strengths**

- **Ready Reserve (ARNG/USAR) (636,355)**
 - Selected Reserve (522,182)
 - Troop Program Units (TPUs) (478,514)
 - Active Guard/Reserve (AGR) (38,797)
 - Individual Mobilization Augmentees (IMA) (4,871)
 - Individual Ready Reserve (IRR) (112,668)*
 - Inactive National Guard (ING) (1,505)
- **Standby Reserve (USAR) (1,668)**
- **Retired Reserve (USAR) (321,312)**

*Individual Warrior (IW) Category in the IRR: The Army's leading "prior service talent bank"

Figure 5c

	Selected Reserve	Individual Ready Reserve/Inactive National Guard	Standby Reserve	Retired Reserve	TOTAL
Army National Guard	333,177	1,505	0	0	334,682
Army Reserve	189,005	112,668	1,668	321,312	624,653
Navy Reserve	76,466	64,355	4,038	117,093	261,952
Marine Corps Reserve	39,938	59,882	1,129	14,693	115,642
Air National Guard	106,430	0	0	0	106,430
Air Force Reserve	75,802	41,319	15,897	174,326	307,344
Coast Guard Reserve	8,187	4,693	41	7,100	20,021
TOTAL	829,005	284,422	22,773	634,524	1,770,724

**Table 1: Personnel Strength of the Reserve Components
as of September 30, 2005¹**

¹ Kapp, Lawrence, CRS Report for Congress, "Reserve Component Personnel Issues: Questions and Answers", updated January 18, 2006, p. 4.

Reserve Component Strength - FY 2005

Reserve Component FY 2005 Year End Strengths											
	Ready Reserve						Standby Reserve			Retired Reserve	
	Selected Reserve				IRR/ING		Total Ready Reserve	Active Status List	Inactive Status List		Total Standby Reserve
	Unit	IMA	AGR	Total	IRR	ING					
ARNG	309,773		23,404	333,177		1,505	334,682				
USAR	168,741	4,871	15,393	189,005	112,668		301,673	1,394	274	1,668	321,312
USNR	62,546	213	13,707	76,466	64,355		140,821	95	3,943	4,038	117,093
USMCR	35,974	1,706	2,258	39,938	59,882		99,820	48	1,081	1,129	14,693
ANG	94,303		12,127	106,430			106,430				
USAFR	60,956	12,938	1,908	75,802	41,319		117,121	393	15,504	15,897	174,326
DoD Total	732,293	19,728	68,797	820,818	278,224	1,505	1,100,547	1,930	20,802	22,732	627,424
USCGR	826	7,286	75	8,187	4,693		12,880	4	37	41	7,100
Total RC	733,119	27,014	68,872	829,005	282,917	1,505	1,113,427	1,934	20,839	22,773	634,524

Table 2: Personnel Strength of the Reserve Components by Category by Sub-Category as of September 30, 2005²

Mobilization Statutes

As a result of conscious force structure allocation decisions over the years since Vietnam, a significant amount of the Army's, and the other military departments, support and service support structure resides in the Reserve Components. Consequently, it is currently impossible to deploy United States military forces without Reserve Component mobilization. Therefore, it is incumbent on all military decision makers and military planners to be thoroughly knowledgeable of the mobilization statutes in Title 10 of the United States Code and in particular Sections 12301, 12302, and 12304 (Figure 6).

Title 10 USC § 12301(d) provides military departments the authority to call a Reserve Soldier to active duty or keep him on active duty with the individual's assent. If the Soldier is a member of the National Guard then the Governor or designated surrogate must also consent. However, the statute strictly precludes withholding consent for duty abroad based upon opposition to the place, intent, nature, or timetable of the duty. This statute is applicable to all reservists without restriction as to the number in volunteer status or the length of time on volunteer status.

² Assistant Secretary of Defense for Reserve Affairs [ASD (RA)] briefing entitled "Utilization of the Reserve Components – Mobilization", January 27, 2005.

Title 10 USC § 12301(b), also referred to as the 15 day statute, provides military departments the authority to involuntarily call active status Ready Reserve members to active duty for up to 15 days annually. Here again the governor's consent is required for members of the National Guard with the same restriction on withholding consent as mentioned previously. Of particular note, under this authority the call to active duty can be for training or an actual operational mission.

Title 10 USC § 12304, known as Presidential Reserve Call Up (PRC), provides the Commander-in-Chief authority to involuntarily call up as many as 200,000 Soldiers comprised of units and individuals from the Selected Reserve and the Individual Ready Reserve for a maximum period of 270 days to augment Active forces. Of the combined total of 200,000 Soldiers up to 30,000 can be called from the Individual Ready Reserve. There is no requirement for the President to declare an emergency and the Reserve support can be for actual operations or for exigent circumstances involving terrorist attacks or utilization of weapons of mass destruction. Should the President exercise this authority, Congress must be informed within 24 hours and be provided a written report indicating why the authority was invoked and how the forces will be employed.

Title 10 USC § 12302, referred to as Partial Mobilization, upon a presidential declaration of emergency provides the authority to call up as many as 1,000,000 Soldiers from the Ready Reserve both units and individuals. The period of call up cannot exceed 24 consecutive months and, as with PRC, this is an involuntary call. The Secretary of Defense is required to update the House and Senate Armed Services Committees annually on implementation policies and procedures for partial mobilization. Under the partial mobilization utilized in support of Operation Enduring Freedom (OEF) and Operation Iraqi Freedom (OIF), the Department of Defense established a policy restricting the call up to a cumulative or total of 24 months as opposed to the statutory consecutive 24 month period. This policy presents a significant challenge during extended operations like OEF and OIF requiring the periodic rotation of units in and out of theater. Many Reserve Soldiers have reached their 24 months total period of eligibility and are no longer available under this partial mobilization.

Title 10 USC § 12301(a), Full Mobilization, requires the Congress to declare war or a national emergency. Under this authority all Reserve Soldiers, without restriction as to total number, are subject to call up for the length of the war or emergency plus six months subsequent to the termination of the war or emergency. This call up includes inactive and retired reservists also, if a determination is made that there are insufficient trained and experienced active Reserve Soldiers or inactive National Guard personnel.

Beyond the five statutory Reserve call up authorities covered above, there is a sixth mobilization category known as Total Mobilization. Since by definition, all existing force structure can be utilized under full mobilization, Total Mobilization permits the creation of new force structure. In addition, under this mobilization category there is authority to mobilize the industrial base. In times of war or national emergency, the President has legal

authority to impose United States Government contract priority over all other contracts on the industrial and manufacturing communities as well as United States Government preference for receipt of products and materials (Title 50 Appendix USC § 2071 and Title 10 USC § 2538).

Mobilization Statutes

<p>12301(a) <i>Full Mobilization</i></p>	<ul style="list-style-type: none"> • Requires declaration of War or National Emergency by the Congress • Requires Congress in Session 	<ul style="list-style-type: none"> • All Reservists including members in an inactive status and retired members • No number limitation stated • Duration of War or Emergency + 6 Months
<p>12302 <i>Partial Mobilization</i></p>	<ul style="list-style-type: none"> • Requires Declaration of National Emergency • Report to Congress Every 6 Months 	<ul style="list-style-type: none"> • Ready Reserve • Not more than 1,000,000 • Not more than 24 consecutive months
<p>12304 <i>Presidential Reserve Call-up</i></p>	<ul style="list-style-type: none"> • Requires Presidential notification of Congress • No Declaration of National Emergency 	<ul style="list-style-type: none"> • Selected Reserve, with up to 30,000 IRR <ul style="list-style-type: none"> ▪ Not more than 200,000 • 270 days • Now includes WMD incidents
<p>12301(b) <i>15-day Statute</i></p>	<ul style="list-style-type: none"> • Service Secretaries may call active status Ready Reserve up to 15 days/year 	<ul style="list-style-type: none"> • Annual Training • Operational Missions • Involuntary, but Governors must consent to Guard activation
<p>12301(d) <i>RC Volunteers</i></p>	<ul style="list-style-type: none"> • Requires consent of individual RC member • Governors must consent to Guard activation 	<ul style="list-style-type: none"> • All Reservists • No number limitation stated • No duration stated

Figure 6

In the introduction to this primer you were asked to consider certain questions as you read it. One of those questions addressed the mobilization statutes and whether or not they required amendment in order to be consistent with current and anticipated future Reserve Component utilization. A request to modify existing law or a proposal to enact new law follows a very structured process within the Department of the Army (Figure 7). The proposed legislation or amended legislation must be coordinated with the appropriate Secretariat Office that has proponent responsibility for the issue concerned, the Office of the Judge Advocate General, the Office of the Chief of Legislative Liaison, the Army General Counsel, the Office of the Director of the Army Staff, Army leadership culminating with Secretary of the Army approval, the Office of the Secretary of Defense General Counsel, and the Office of Management and Budget in the White House before presentation to the Congress for consideration. Figure 8 depicts the submission timeline for FY 07 legislative proposals and demonstrates the priority attached to proposals that impact funding.

ARMY LEGISLATIVE PROPOSAL PROCESS

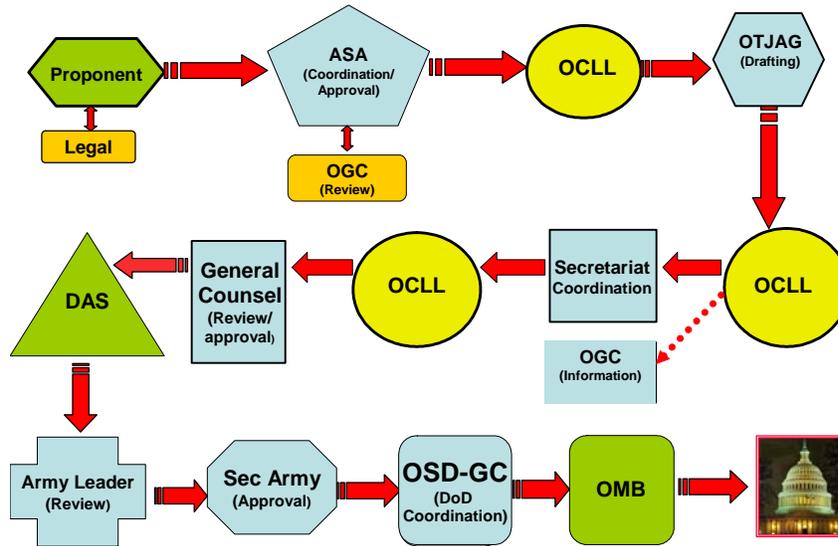


Figure 7

Timeline for FY07 Legislative Proposals

- Proposals with funding impact were due to OCLL – 1 August
- Other proposals due to OCLL – 1 September
- Proposals w/ funding impact due to OSD - 1 October
- Other proposals due to OSD - 15 October
- Proposals w/ funding impact due to OMB - 29 October
- Other proposals due to OMB – January 06
- OMB clearance & transmittal to the Congress (March)
- Congressional hearings (April)
- Committee Markup of bill (May)
- Floor action (June/July)
- Conference (September)
- Enactment (October)

Figure 8

Reserve Components of the Army

Now the primer focuses on the Reserve Components of the United States Army – the Army National Guard (ARNG) and the United States Army Reserve (USAR). Today in the United States Army, more than ever before, we are closer to past pronounced force policy becoming the reality of The Army (Figure 9). Now, if for no other reason than necessity, driven by the current and foreseeable global strategic environment and the resultant considerable

operational tempo demands placed upon the Army, the Active and Reserve Components execute as one unit, not as separate components.



Figure 9

Notwithstanding this laudable unity of effort, there are still unique aspects of the Army Reserve Components that define and shape their character and capabilities which must be understood to realize and maximize the optimum synergistic output of component integration. We start with a discussion of the Army National Guard.

Army National Guard (ARNG)

The Army Guard of today traces its lineage to the colonial militia and the first muster of 1636 in what is now present day Massachusetts. The citizen Soldier tradition extending from the colonial period is the cornerstone of the Army National Guard foundation and, arguably, the fundamental basis for military structure in our form of government as codified in “militia clauses” 15 and 16 of Article I, Section 8, as well as Amendment II of the Constitution (supra pp. 2-3). The Army National Guard stands as a clear manifestation of compromise addressing the inherent tension between a strong central government and the rights and authority of individual States and their citizens. As a direct result, the Army National Guard responds to the Federal Government for national security missions and to the State Government of their situs for state missions. It is well settled that federal law preempts state law and, therefore, that the Army Guard’s national security mission takes precedence over state missions. As discussed earlier, federal statutes provide for federalization or mobilization of the Army National Guard with or without a declaration of national emergency. To enable the Army Guard to fulfill their responsibilities under the mobilization statutes, the federal government provides in excess of 90% of their required funding with the intended focus on preparing for the national security mission. Priority State missions include responding to disasters and enforcing state law. This latter mission, military forces enforcing civil law, raises the specter of Posse Comitatus and the Insurrection Act (Title 10 USC §§ 331-335) both of which will be addressed later in the primer. Suffice it to say for now that, with the maturing of homeland security and defense plans, interagency cooperation and

military assistance to civil authorities will be the order of the day. Therefore, it behooves both military and civilian personnel to master a thorough understanding of the pertinent law.

At the federal level, the National Guard is managed by the National Guard Bureau (NGB), a direct descendant of the Division of Militia Affairs established in the War Department by the 1908 amendments to the Militia (Dick) Act of 1903 (Figure 10)³. NGB is headed by an Army or Air Force Lieutenant General designated the Chief, National Guard Bureau (C, NGB). The National Guard Bureau is comprised of a joint Army/Air Force staff and two Directorates – one Army Directorate and one Air Force Directorate. The Chief, National Guard Bureau is a presidential appointee requiring the advice and consent of the United States Senate. The Chief’s term of office is four years with the possibility of a successive four year term. The C, NGB is responsible to the military department heads through their respective Chiefs of Staff and keeps the Army and Air Force Chiefs of Staff apprised of National Guard issues. Managing the distribution of federal resources to the several states, territories, and District of Columbia, the Chief, National Guard Bureau and the Bureau Staff serve as the peacetime communications link between the states/territories/District of Columbia and the military departments.

The Army National Guard Directorate is led by an Army Lieutenant General designated as the Director, Army National Guard (D, ARNG) also appointed by the President with the advice and consent of the Senate. The term of office is identical to that of C, NGB – four years with the possibility of a subsequent four year term. The D, ARNG answers to the Secretary of the Army through the Army Chief of Staff and is responsible for keeping the Army Chief of Staff and the Army Staff current on Army Guard issues. The Director of the Army Guard also serves as a communications conduit between the states/territories/District of Columbia and the Department of the Army and, somewhat uniquely, as the head of an Army Staff Agency in the Army policy, planning, programming and budget arena.



Figure 10

³For purposes of Figure 10 the term Governors includes the leadership of the U.S. Territories and the District of Columbia.

Although currently structured with eight Divisions (Figure 11) [the 29th Infantry Division (Blue/Gray Division headquartered in Virginia), the 42nd Infantry Division (Rainbow Division headquartered in New York), the 28th Infantry Division (Keystone Division headquartered in Pennsylvania), the 34th Infantry Division (the Red Bull Division headquartered in Minnesota), the 35th Infantry Division (the Trail of the Santa Fe Division headquartered in Kansas), the 38th Infantry Division (the Cyclone Division headquartered in Indiana), the 40th Infantry Division (the Sunburst Division headquartered in California), and the 36th Infantry Division (the T-Patch Division headquartered in Texas)], the Army National Guard has begun transitioning to the modular combat brigade design. The ARNG modular conversion timeline began in FY 2005 with the 34th and 35th Infantry Divisions and is scheduled for completion in FY 2008 with the conversion of the 38th Infantry Division.

In addition to the eight ARNG Divisions, the Army National Guard provides the brigade structure for the Army's two Integrated Divisions – the 7th Infantry Division (Light) and the 24th Infantry Division (Heavy) (Figure 12). The Integrated Division initiative was instituted at the beginning of FY 2000. The Army resurrected the Active Component Headquarters elements of the 7th Infantry Division and the 24th Infantry Division, both deactivated in previous reductions in force structure, placed the division headquarters at Ft. Carson and Ft. Riley respectively, and allocated three ARNG Enhanced Separate Brigades to each division headquarters. These divisions were never intended to be employed as divisions. Rather, the purpose of this commingled structure was to provide the Separate Brigades a higher priority for resources and additional pre-mobilization training and oversight to enable them to achieve a C-1 deployable readiness capability within 90 days subsequent to call-up.



Figure 11

AC/ARNG Integrated Divisions

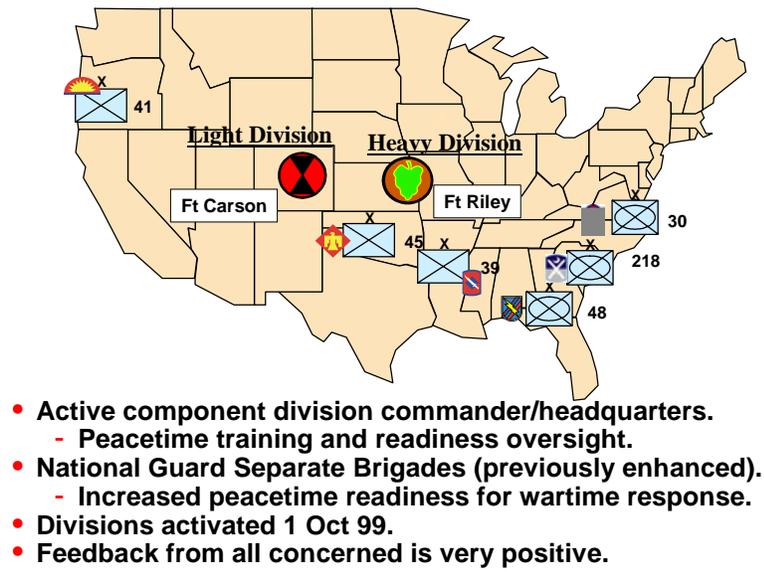


Figure 12

United States Army Reserve (USAR)

The United States Army Reserve is approaching its one hundredth birthday anniversary (April 23, 2008). Formed as a Medical Reserve Corps in the 1908 amendments to the Militia Act of 1903, the USAR has evolved to a force largely composed of combat support and combat service support units. A federal reserve force from the outset, the United States Army Reserve has three primary missions – personnel management conducted at the Federal Records Center in St. Louis, Missouri (HRC-St. Louis) as an element of the Human Resources Command (HRC), resource management conducted by the Office of the Chief Army Reserve (OCAR) within the Pentagon environment, and force management conducted by the United States Army Reserve Command (USARC) a major subordinate command of FORSCOM currently located at Ft. McPherson, Georgia (Figure 13).

Army Reserve's Three Missions



Figure 13

HRC-St. Louis provides human resources life-cycle management for more than 1 million clients. The gamut of personnel services – promotion, retirement, mobilization, demobilization, assignments, pay, education, records management, and others – are provided to those currently serving, retirees, and veterans. The Office of the Chief Army Reserve (OCAR) functions essentially as an Army Staff Agency. In accordance with Department of the Army policies and procedures, OCAR coordinates and collaborates with Army staff and agencies on all policy, planning, programming, budgeting, and execution issues involving the USAR. The United States Army Reserve Command exercises command and control responsibilities of USAR units and individuals located within the United States with the notable exception of USAR special operations organizations that come under the authority of the Special Operations Command (SOCOM) located at Ft. Bragg, North Carolina. The USARC has all the inherent responsibilities of a major subordinate command to organize, resource, train, and prepare for employment the units and individuals that fall within its jurisdiction.

Analogous to the Director of the Army National Guard, the Chief of the Army Reserve (CAR) is appointed by the President with the advice and consent of the Senate to a four year term with the possibility of a successive four year term. Responsible to the Secretary of the Army via the Chief of Staff Army (CSA), the CAR keeps both the CSA and the Sec Army

apprised of all USAR issues. Unlike the Director of the Army National Guard, the CAR also has command responsibilities. The Chief of the Army Reserve is also the Commander of the United States Army Reserve Command with all the attendant command and control responsibilities of a major subordinate command commander. Prior to Base Realignment and Closure (BRAC) 2005, the USARC exercised command and control of Army Reserve units within the United States through ten Regional Readiness Commands (RRCs). As Figure 14 demonstrates, the RRCs were aligned with the boundaries of the ten Federal Emergency Management Agency (FEMA) regions to facilitate military support to civilian agencies.

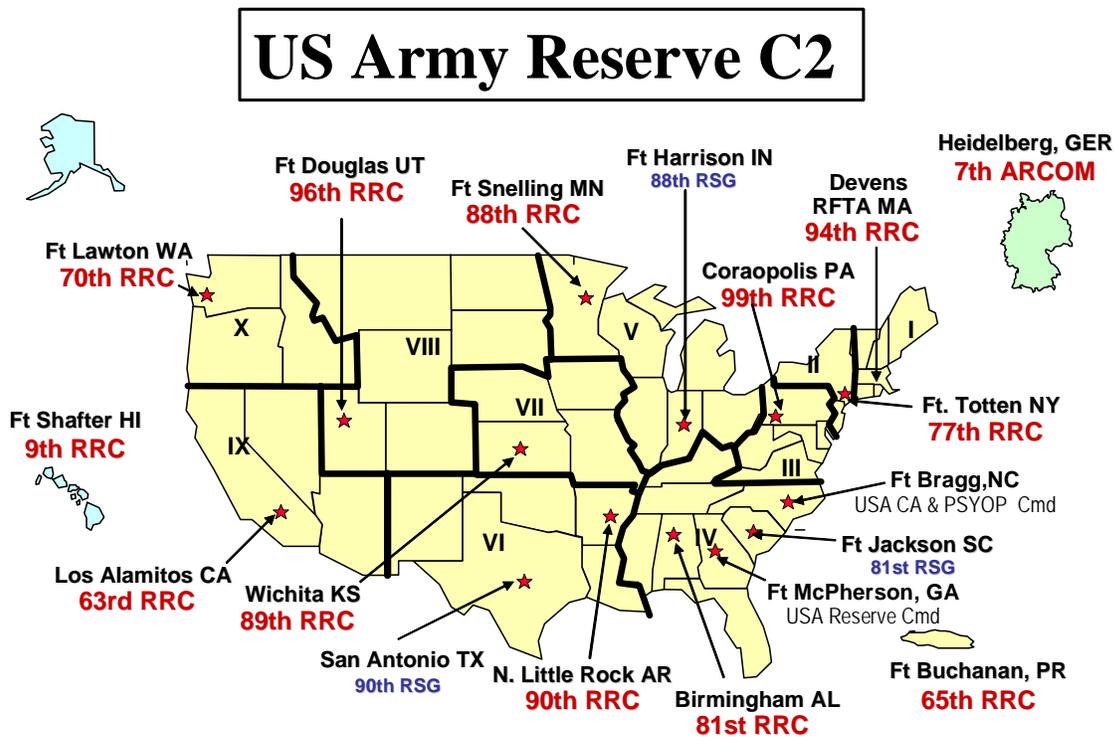


Figure 14

Currently, the 9th RRC in Hawaii reports to the United States Army, Pacific Command (USARPAC) concerning Army Reserve units in the Pacific region and the 7th Army Reserve Command (ARCOM) reports to the United States Army, European Command (USAREUR) with regard to Army reserve units in Europe. As of 9 November 2005, BRAC 2005 is now law. BRAC 2005 directs the dissolution of the ten RRCs in the United States and the activation of four Regional Readiness Sustainment Commands (RRSCs), six sustainment brigades and two maneuver enhancement brigades. The four RRSCs are to be situated at Fort Dix, Fort McCoy, Moffett Field, and Fort Jackson (Figure 15). The RRSCs will have command and control over maintenance and storage facilities as well as increased base operations and personnel services responsibilities in coordination with the Installation Management Agency (IMA) and Human Resources Command (HRC).

U.S. Army Reserve Streamlined Command and Control HQs

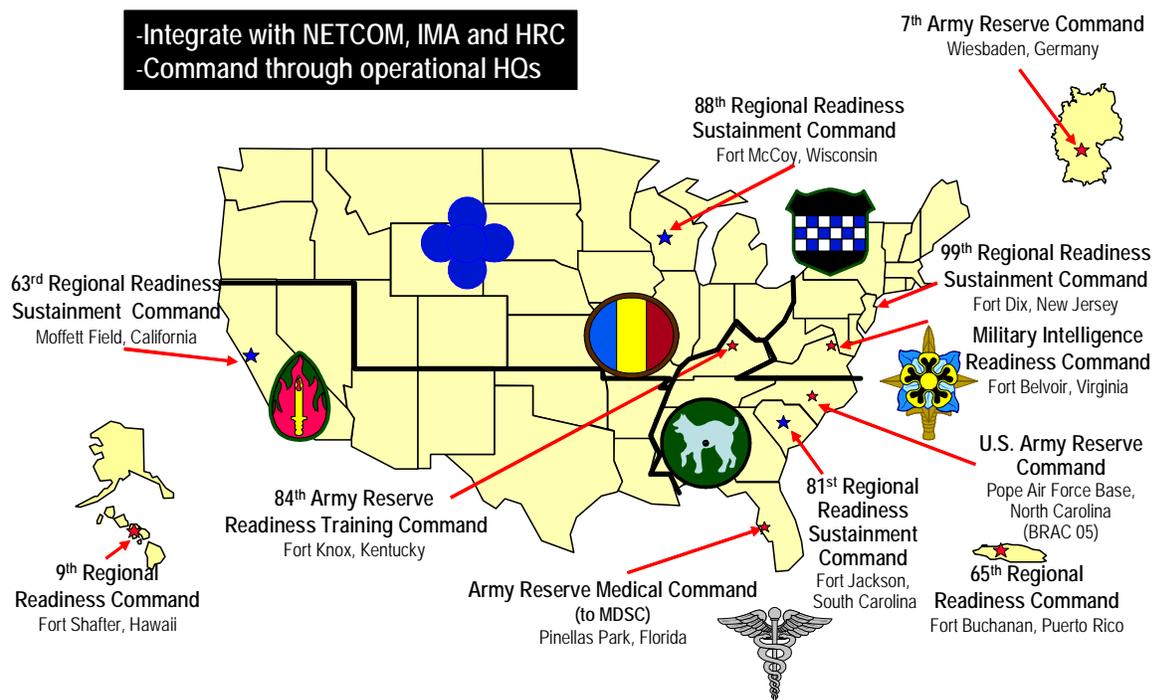


Figure 15

In addition to its core competencies in combat support and combat service support, the USAR is uniquely structured with eleven training divisions (Figure 16) that enable training and power projection base expansion. The divisions are categorized by function as either Institutional Training Divisions or Training Support Divisions. The six Institutional Training Divisions focus on individual training. These divisions are structured to conduct initial entry training, MOS qualification, advanced individual training, professional training for officers and noncommissioned officers, new and detached equipment training, and training in support of ROTC summer programs. The five multi-component Training Support Divisions provide staff and unit training for combat, combat support, and combat service support organizations with a focus on elevating mobilized units to deployment standards. The 84th Institutional Training Division converted to the 84th Army Reserve Readiness Training Command (ARRTC) to be located at Ft. Knox, Kentucky.

USAR Division Locations

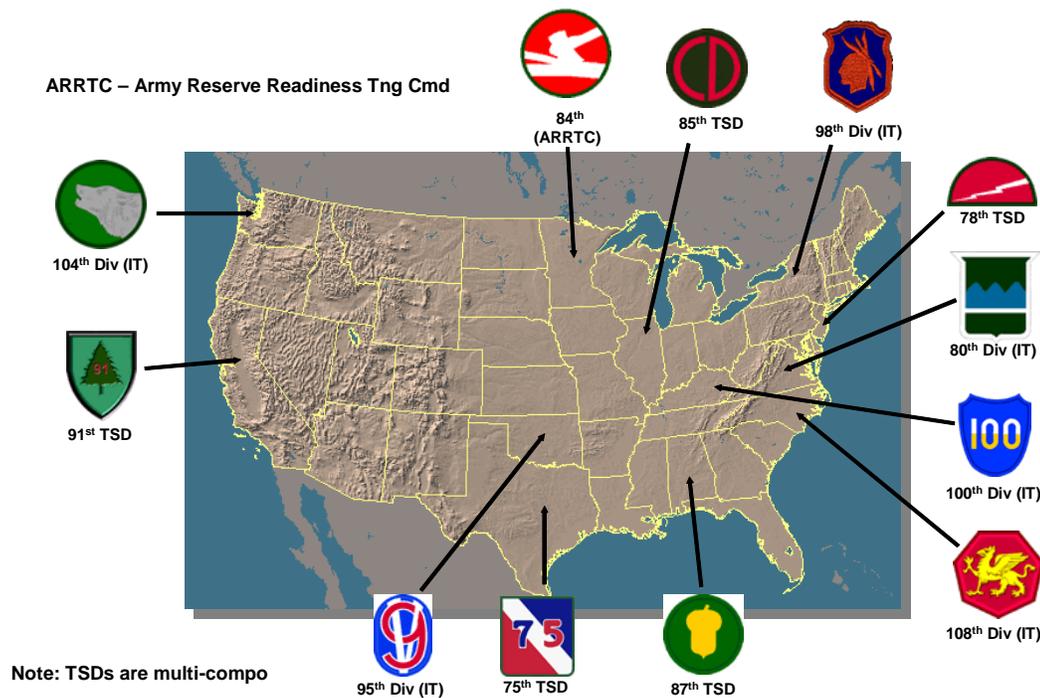


Figure 16

Rebalancing Active and Reserve Forces

During and after the Vietnam War, Army leadership viewed the determination not to mobilize and deploy the Reserve Components in significant numbers as a fundamental misjudgment and vowed never to go to war again without the Reserves. This position is sometimes referred to as the “Abrams Doctrine” for the Army Chief of Staff at the time. In order to implement this “doctrine”, a conscious decision was made to structure the Army so that it would be impossible to go to war without the Reserve Components. Through the Total Army Analysis (TAA) process whereby the Army establishes and allocates its force structure requirements much of the Army’s go to war requirement for combat, combat support and combat service support was placed in the Reserve Components. As of January 2005, approximately 60% of Army combat structure, 54% of Army combat support structure, and 69% of Army combat service support structure is in the Army Reserve and the Army National Guard.⁴

Some dramatic examples of the force structure imbalance include civil affairs units, psychological operations units, hospitals, and medical groups. Today 97% of the Army’s civil affairs units are in the Army Reserve, 72% of the Army’s psychological operations units

⁴ Assistant Secretary of Defense for Reserve Affairs [ASD (RA)] briefing entitled “OSD/RA Total Force Briefing”, January 3, 2005.

are in the Army Reserve, 72% of Army hospitals are in the Army Reserve, and 70% of the Army’s medical groups are in the Army Reserve. [Figure 17 displays the AC/RC distribution of civil affairs units, psychological operations units, chemical recon detachments and Special Forces groups within Special Operations Command (SOCOM)]⁵. Concomitant with the implementation of the Abrams Doctrine through the TAA process, the Department of Defense promulgated the Total Force Policy pronouncing the National Guard and the other Reserve Components as the initial and primary augmentation to the active force. This increased reliance upon the Reserve Components was also driven by necessity as a result of decreasing budgets, increasing optempo, and reductions in force structure.

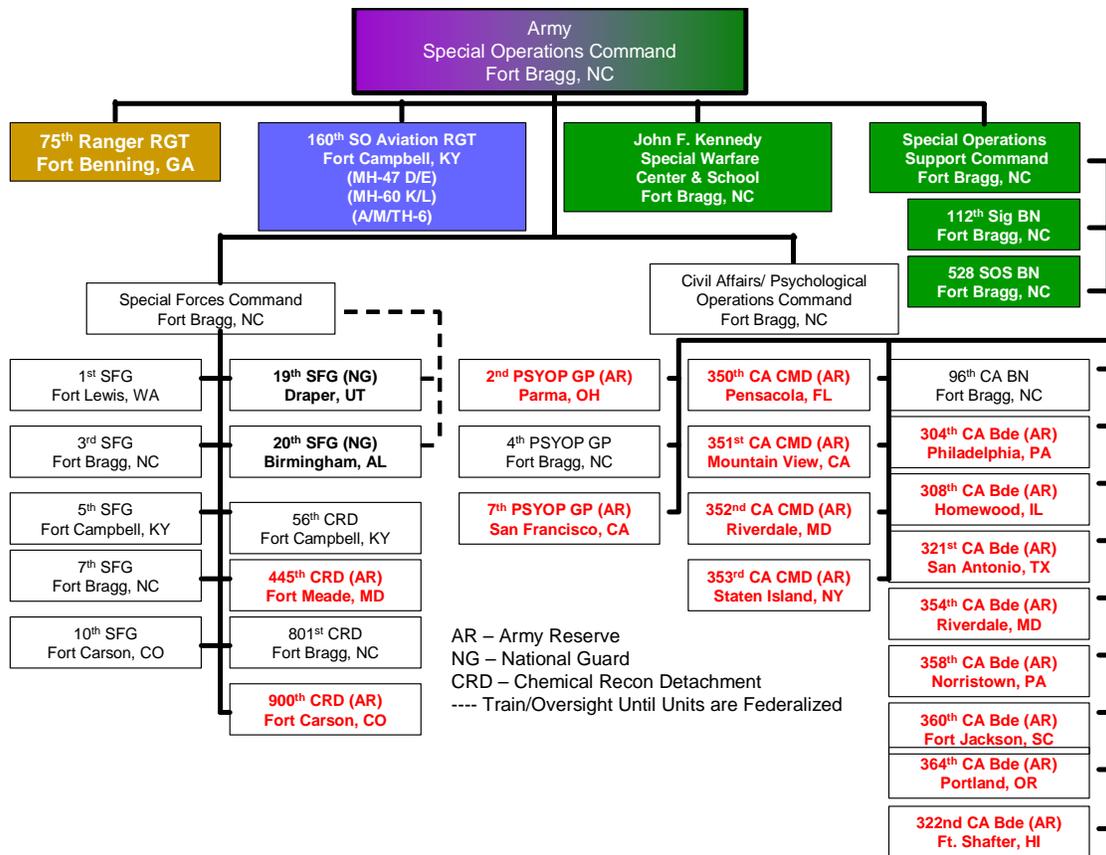


Figure 17

Almost thirty years later in a dramatically changed global strategic environment and with a markedly different National Security Strategy of preemption, the proper mix of AC and RC forces is under question. In an attempt to address this important issue, the Quadrennial Defense Review Report of 2001 directed a study entitled a “Review of Reserve Component Contributions to National Defense”. The results of the study were announced in a December 20th, 2002 report and concluded, “...that the balance of capabilities in the Active and Reserve components today is not the best for the future.”

⁵ 16 May 2006 Army announced the immediate transfer of operational command and control of the U.S. Army Civil Affairs and Psychological Operations Command from USASOC to the USARC. The 95th CA Bde (provisional) and the 4th PSYOP GP remain with USASOC.

In order to address this imbalance, the Secretary of Defense issued a memorandum on July 9th, 2003 entitled “Rebalancing Forces”. The memorandum echoed the AC/RC force structure asymmetry conclusion of the QDR directed study and set forth the three primary objectives of the Secretary of Defense to guide the development of rebalance measures. The straightforward objectives of the Secretary of Defense included a restructure of Active and Reserve forces to decrease the need to involuntarily mobilize the Reserve Components; institution of a stringent validation process for required joint forces; and more effective management of mobilization and demobilization of reserve forces.

Placing further emphasis on the first objective, the Secretary specifically directed the elimination of the requirement to involuntarily mobilize the RC within the first 15 days of a rapid response mission. And in the last paragraph of the one page memorandum the Secretary put a figurative exclamation point on the entire rebalance issue stating “I consider this a matter of the utmost urgency.”

Appended to the memorandum was an attachment listing ten specific tasks associated with the rebalance of AC/RC force structure. The tasks were grouped under the three headings of “Rebalance Forces”, “Encourage Increased Volunteerism”, and “Innovative Management”. Nine of the ten actions had specified suspense dates for completion none of which was longer than December 2003. The one task without a suspense date addressed resources for increased volunteerism and directed the military departments to program adequate funds to sustain RC volunteerism.

Military Assistance to Civil Authorities

Homeland Security (HLS) and Homeland Defense⁶ (HLD) are interrelated, paramount national security issues. Suffice it to say that both fall into the category of “Job One”. Figure 18 simplistically, but clearly, depicts both the interrelationship among national security, homeland security, and homeland defense and the relationship of support to civil authorities to all three.

⁶ Homeland Security and Homeland Defense are not the same. Homeland Security is the prevention, preemption, and deterrence of, and defense **against, aggression** targeted at U.S. territory, sovereignty, domestic population, and infrastructure as well as the management of the consequences of such aggression and other domestic emergencies. Homeland security is a national team effort that begins with local, state and federal organizations. DoD and NORTHCOM's HLS roles include homeland defense and civil support.

Homeland Defense is the protection of U.S. territory, domestic population and critical infrastructure **against military attacks** emanating from outside the United States. In understanding the difference between HLS and HLD, it is important to understand that NORTHCOM is a military organization whose operations within the United States are governed by law, including the [Posse Comitatus Act](#) that prohibits direct military involvement in law enforcement activities. Thus, NORTHCOM's missions are limited to military homeland defense and civil support to lead federal agencies.

DoD Relationship to National Security and Homeland Security

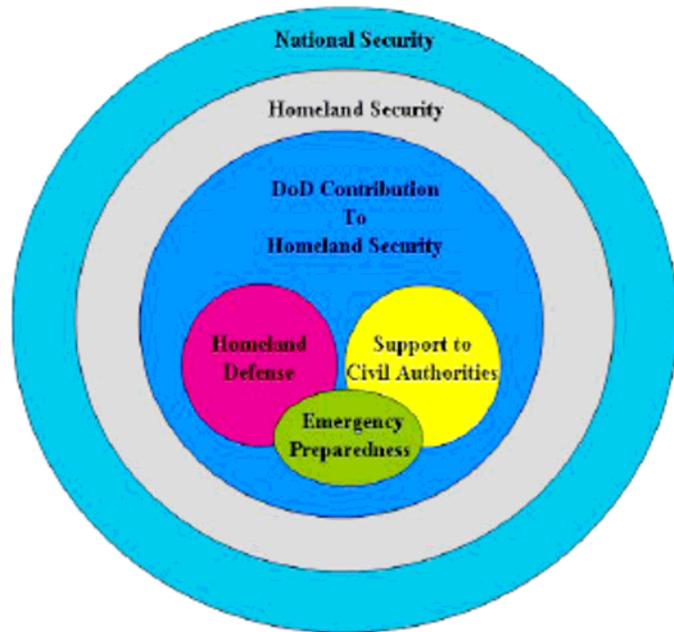


Figure 18

(Source: *Domestic Operational Law [DOPLAW] Handbook For Judge Advocates*, Sept 2004, p. 6)

While all the plans associated with HLS and HLD have yet to be fully developed and all the responsibilities have yet to be sorted out, one aspect of these critical issues is clear and self-evident and that is their implementation will be an interagency effort – military and civilian agencies working synchronously together for national security. That being the case, it is incumbent upon all involved to be mutually knowledgeable of each others capabilities and limitations.

Since for many in the military interagency operations is breaking new ground, it especially behooves them to be familiar with Department of Defense policy, directives, procedures, and organizational authority involved with providing military assistance to civil authorities (MACA).

The governing DoD order for MACA is DoD Directive 3025.15 (Figure 19). Entitled, appropriately, “Military Assistance to Civil Authorities” and dated February 18, 1997,⁷ the directive clearly articulates DoD policy by stating that “The Department of Defense *shall* cooperate with and provide military assistance to civil authorities as directed by and

⁷ <http://www.dtic.mil/whs/directives/corres/html/302515.htm>.

consistent with *applicable law, Presidential Directives, Executive orders, and this Directive.*”

MACA broadly encompasses military support for “civil disturbances, counterdrug, sensitive support, counterterrorism, and law enforcement.” A subset of MACA known as Military Support to Civil Authorities (MSCA) is focused on “natural and manmade disasters”.

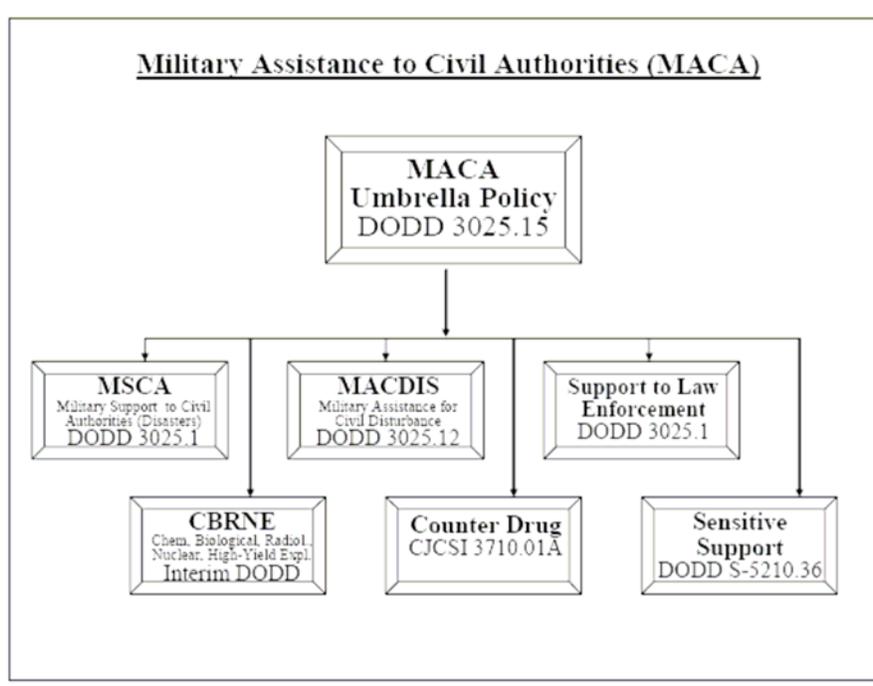


Figure 19

(Source: *Domestic Operational Law [DOPLAW] Handbook For Judge Advocates, Sept 2004, p. 8*)

It is also essential for military and civilian personnel to understand the governing law covering federal military assistance or support to civil authorities especially regarding law enforcement.

Our unique federal-state relationship in the United States is not only formally established in the Constitution, but also fundamentally ingrained in our culture and heritage of freedom. A delicate unifying balance was created in 1787 whereby the several sovereign states relinquished certain powers to a central government providing it with specific, yet limited or restricted authority.

The tenth amendment to the Constitution clearly articulates the agreed distribution of authority between the federal government and the States – “*The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.*” Out of concern over the coercive potential of large standing professional militaries, one of those State reserved powers is law enforcement. In this area,

federal force intervention in State jurisdictional matters is strictly controlled. In particular there are two areas of federal law that require detailed understanding by those involved with military assistance to civil authorities – Posse Comitatus Act (PCA) (Figure 20) and the Insurrection Act (Figure 22).

The Posse Comitatus Act is perhaps often misunderstood as a total preclusion of law enforcement by federal military forces. While a limitation on the use of federal forces to enforce civil law, it is not an absolute prohibition of federal forces in that role. In fact there are those who would contend that the PCA is so riddled with statutory exceptions as to be essentially ineffective. Strong support for that contention can be found in the fact that

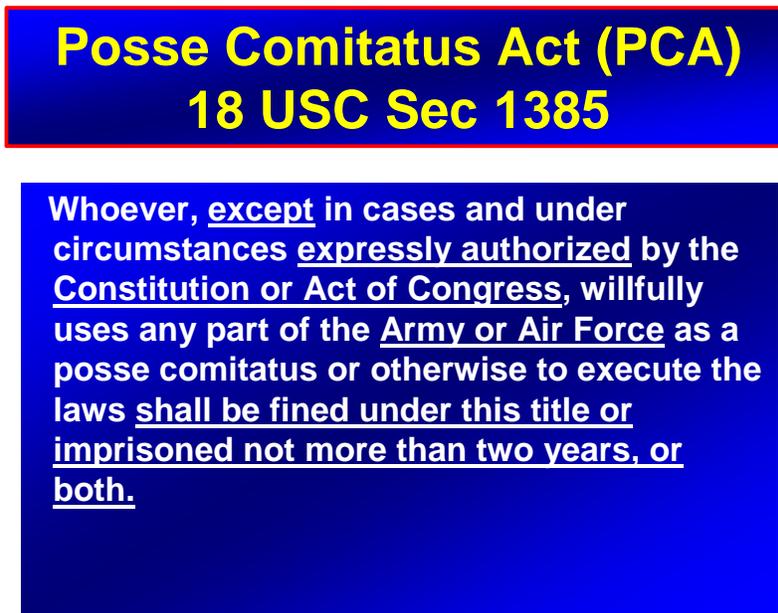


Figure 20

although a criminal statute Posse Comitatus, in the 125 years plus since its enactment, not a single criminal prosecution has been initiated under the statute. Having said that, there is always the possibility, therefore, a basic understanding of the law and how to approach a request for assistance from civil authorities is imperative.

Grasping an understanding of the black letter law is not difficult. The United States Code Title 18 Section 1385 is pretty straight forward. Unless you have a constitutional or statutory exception, use of the Army or Air Force (and the Navy and Marine Corps by DoD policy and DoD Directive) as a posse comitatus (force of the county) or otherwise to “execute the laws” is strictly prohibited and those convicted of violating the statute are subject to fine or imprisonment or both.

That being understood obviously begs the question how does one support a request for military assistance by civil authorities and not run afoul of the law? A suggested answer to that question involves a two step process. Step one, assuming time and circumstances

permit, contact your legal officer (judge advocate) and get an opinion as to what types of assistance can and cannot be provided based upon the specific facts of the requested assistance. Preferably, that opinion should be received in writing. Step two, if the exigencies of the situation do not allow time to solicit legal advice and dictate immediate action, use the “active versus passive test” approach applied by courts addressing legal complaints subsequent to the 1973 confrontation between the American Indian Movement and federal agents at Wounded Knee, South Dakota.

The essence of this approach is that a PCA violation can be avoided when providing military assistance to civil authorities by not “... subjecting ... citizens to the exercise of military power which is regulatory, proscriptive, or compulsory in nature.” Therefore, the statute should be strictly construed as a prohibition of “active” military involvement in arrests or apprehensions, searches and seizures, surveillance, investigations, undercover work, and the interdiction of vehicles.⁸ Those types of activities are outside the scope of military authority and rightly within the purview of civilian law enforcement agencies.

However, certain types of “passive” military assistance are permissible. In fact, there is statutory authority permitting the military to provide civil authorities criminal information or evidence obtained during military operations, to loan or lease equipment, to maintain and in some cases operate loaned or leased equipment, and to provide training or expert advice.⁹

Figure 21 presents a good lay down of the authorities permitting and restricting military assistance in “domestic support operations”. One especially noteworthy authority is DoDD 5525.5 entitled *DoD Cooperation with Civilian Law Enforcement Officials*. Notwithstanding this legal authority to provide passive military assistance, that assistance may not be provided if to do so would be detrimental to military readiness.¹⁰

⁸ See 10 USC § 375

⁹ See 10 USC §§ 371 - 374

¹⁰ See 10 USC § 376

**PCA RESTRICTIONS 10 U.S.C. §§371-375
AND DoDD 5525.5**

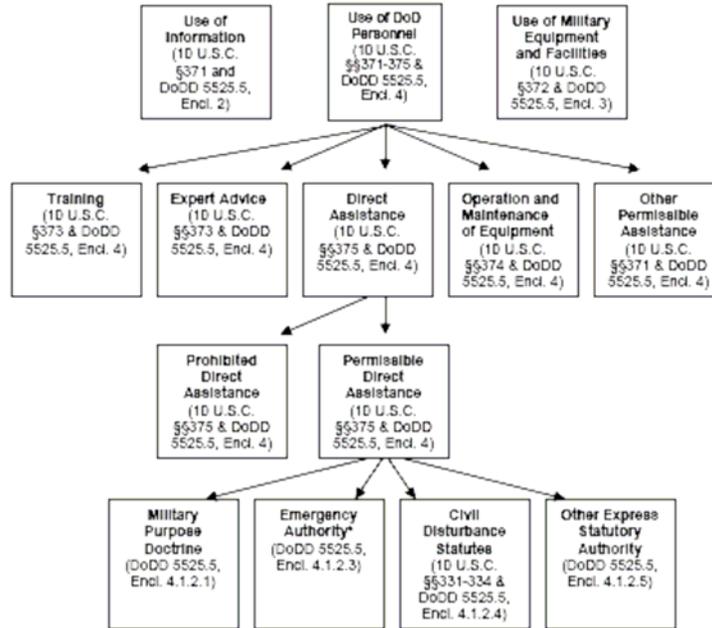


Figure 21

Insurrection Act - 10 USC 331-335

- § 331 – **Federal Aid for State Gov'ts** - statutory authority to intervene upon request from state legislature or governor
- § 332 – **Use of Militia/Armed Forces to Enforce Federal Auth** - statutory authority to intervene without state request
- § 333 – **Interference with State & Federal Law** - can act unilaterally even over state opposition – rationale denial of equal protection
- § 334 – **Proclamation to Disperse** - action requires Presidential proclamation for insurgents to disperse and retire peaceably
- § 335 – **State includes** Guam and the Virgin Islands

Figure 22

The Insurrection Act is the popular name given to Sections 331 through 335 of Title 10 United States Code. These code sections provide the President broad and substantial power to use Militia (National Guard) and federal military forces to quell domestic disorder. Section 331 provides that upon request of a State legislature, or Governor if the legislature cannot be convened, the President may use federalized Militia and/or federal military forces to repress a rebellion in that State. Section 332 provides the authority to interpose federal forces even without a State request, if the President determines that judicial enforceable of

federal law is infeasible due to civil unrest. Section 333 significantly expands the scope of executive power by directing the President to use Militia and/or federal forces “or by any other means, shall take such measures as he considers necessary to suppress State insurrection that obstructs implementation of federal or State law. Under this section action by the President is considered justified because the State is deemed to have denied the fundamental right of equal protection of the laws guaranteed to all United States citizens by the Constitution. Section 334 requires the President to issue a proclamation to disperse to the insurrectionists prior to utilizing military force and Section 335 simply recognizes the territories of Guam and the Virgin islands as States for the purposes of the Insurrection Act. Bottom line, the President has the legal authority to quell insurrection with State request, without State request, and even over State opposition.

Base Realignment and Closure (BRAC)

During the 2005 Base Realignment and Closure process two significant issues surfaced concerning the Reserve Components. One issue raised the question as to whether or not the Governor’s consent requirement of Title 10 USC Section 18238 and Title 32 USC Section 104 applies to the base realignment and closure process. A literal reading of the black letter law seems to support the argument that State Governors have “veto power” over a federal attempt to realign or disestablish National Guard units or facilities within their jurisdiction (Figures 23 & 24).

TITLE 10 U.S.C. Sec. 18238. Army National Guard of United States; Air National Guard of United States: limitation on relocation of units

(e) A unit of the Army National Guard of the United States or the Air National Guard of the United States may not be relocated or withdrawn under this chapter without the consent of the governor of the State or, in the case of the District of Columbia, the commanding general of the National Guard of the District of Columbia.

Figure 23

TITLE 32 - NATIONAL GUARD CHAPTER 1 - ORGANIZATION

Sec. 104. Units: location; organization; command

(c) To secure a force the units of which when combined will form complete higher tactical units, the President may designate the units of the National Guard, by branch of the Army or organization of the Air Force, to be maintained in each State and Territory, Puerto Rico, and the District of Columbia. However, no change in the branch, organization, or allotment of a unit located entirely within a State may be made without the approval of its governor.

Figure 24

In fact, certain congressional members from Illinois read the United States Code to say just that and forwarded a letter to the Secretary of Defense in March 2005 citing Section 18238(e) of Title 10 United States Code and requesting “... that any and all actions taken under BRAC against Air and Army National Guard bases without the consent of the governors of those states be stopped immediately.” The Illinois congressional members further asserted that their position was supported by an opinion from the office of the United States House of Representatives Legislative Counsel.

The State of Connecticut felt strongly enough about the issue that it brought an action in the United States District Court District of Connecticut against the Secretary of Defense and the BRAC Commission seeking a preliminary injunction to prevent the transfer of Connecticut Air Guard A-10s out of state. On September 7, 2005 the federal district court granted the injunction enjoining the BRAC Commission from recommending the A-10 transfer to the President in their final report. On September 8, 2005 the Defense Base Realignment and Closure Commission forwarded its report to the President noting that based upon the injunction the recommendation to realign the Connecticut Air Guard should be treated as removed for consideration. The commission, however, indicated that should the injunction be overruled in the future then the Connecticut Air Guard realignment should be considered part of their final report. The very next day, on September 9th, after argument on an Emergency Motion for a Stay of the injunction pending appeal requested by the Secretary of Defense and the BRAC Commission, the United States Court of Appeals for the Second Circuit granted a stay of the preliminary injunction. No further action was taken regarding the injunction. The President forwarded the report to Congress and, as required by the BRAC statute, forty-five days later without congressional objection the report became law on November 9, 2005.

While as a practical matter the issue appears to be moot with regard to BRAC 2005, it is by no means settled. Since the issue of whether or not the statutory requirement for the governor's consent applies to federal BRAC actions has not been decided on the merits, it may be raised in subsequent BRAC initiatives.

Interstate Compacts

The evolution of today's reciprocal assistance agreements among the States has its roots in post World War II civil defense initiatives and specifically the Disaster Relief Act of 1950. The purpose of the Disaster Relief Act was to provide federal aid to States in the event of natural or human-made catastrophes. Yet, even after the establishment of the Federal Emergency Management Agency (FEMA) during the Carter Administration to facilitate federal disaster assistance, calamities like Hurricane Andrew in 1992 made it abundantly clear that interstate reliance would also be necessary. Consequently, the southern States collaborated to formulate the Southern Regional Emergency Management Assistance Compact (SREMAC) in 1993. In 1995 membership in the agreement was offered to all states and territories and the expanded effort evolved to the Emergency Management Assistance Compact (EMAC).

The United States Constitution (Article I, Section 10, Clause 3) mandates that all state agreements or compacts be ratified by Congress. Congress sanctioned EMAC in 1996 as Public Law 104-321 the first such approval subsequent to the Civil Defense Compact of 1950. As of September 2005 with the inclusion of California forty nine states have legislatively approved the Compact. The recent devastation caused by Hurricane Katrina in September of 2005 has reinforced the requirement for mutual assistance agreements among the States. Article I, Purpose and Authorities, of EMAC specifically incorporates utilization

of the National Guard as part of possible reciprocal aid among its members. And over the years since Hurricane Andrew, the Guard has provided interstate assistance and support under the authority of the Compact for a number of disasters such as floods, wildfires, and hurricanes.

Uniformed Services Employment and Reemployment Rights Act (USERRA)

The current and foreseeable global strategic commitments for United States military forces place considerable reliance and demands upon the Reserve Components especially the Army's Reserve Components – the United States Army Reserve and the Army National Guard. Those commitments require frequent and extended periods of active duty for the Army's citizen Soldiers. These extended periods of active duty can and often do create significant tension between military duty and civilian career employment.

Conscious of this potential friction between military duty and civilian employment, Congress passed and the President signed into law the Uniformed Services Employment and Reemployment Rights Act (USERRA) in 1994. The legislation has the threefold intention of promoting part-time military service by removing or reducing obstacles to a civilian occupation as a consequence of military responsibilities, minimizing uncertainty and concern by guaranteeing reemployment upon culmination of military duty, and precluding discrimination directed towards individuals because of their military commitment. The law covers all military components and applies to first time hiring, reemployment, or harmful personnel acts as a result of military service. Of particular note, the law does not distinguish between involuntary or voluntary service. It applies to both. Likewise, it is applicable in both peacetime and wartime. It does not apply, however, to National Guard State military service. National Guard personnel will have to look to state law for protections in this regard.

The National Committee for Employer Support of the Guard and Reserve (NCESGR)

The Department of Defense is keenly aware of the important role employers play in promoting and sustaining voluntary part-time military service by their employees. The Department also recognizes that the relationship between employees with part-time military responsibilities and their employers is a two way street and that both have rights and interests that require protection.

In recognition of this relationship vital to our national defense interests and in order to manage that relationship as effectively and efficiently as possible, the National Committee for Employer Support of the Guard and Reserve (NCESGR) was established in 1972. An entity in the Office of the Assistant Secretary of Defense for Reserve Affairs [ASD (RA)], NCESGR functions both as a proponent of a cooperative and harmonious relationship between employers and their employees who serve part-time in the Guard or Reserve and as an interested advocate to resolve employer-employee problems concerning the employee's military obligations.

Title 32 United States Code

As discussed previously, the National Guard is unique in that it has both a federal and a state mission. The National Guard also has the distinction of its own governing law under Title 32 of the United States Code. Title 32 affirms the essential importance of the National Guard for defense of the United States and sets forth specifics covering the organization, personnel, training, and service, supply, and procurement related to the National Guard.

In order to satisfy both its federal and State responsibilities, the Guard may be activated solely under federal authority (see Mobilization Statutes pp16-18 supra), solely under State authority (State law), or under State authority (command and control) supported by federal resources while conducting a federal mission. This last activation status is governed by Title 32 United States Code. Title 32 not only governs weekend drills and annual training [Title 32 § 502(a)–(e)], but section 502(f)¹¹ allows for “training or other duty” apart from weekend and yearly requirements. Title 32 USC § 502(f) was the authority used to secure airports after September 11, 2001 and for disaster relief associated with hurricanes Katrina and Rita.¹² In essence, those missions were conducted under State control sustained with federal dollars.

Over time Title 32 has been amended expanding the Guard’s responsibilities to include drug interdiction and counter drug activities¹³ as a State active duty mission supported by federal funds. In October 2004, Title 32 was amended by the National Defense Authorization Act (NDAA) for FY 2005 to incorporate “Homeland Defense Activities” as a Guard mission also supported by federal funds.

The new chapter added to Title 32 defines homeland defense activities as those undertaken for the military protection of the territory or domestic population of the United States, or of infrastructure, or other assets of the United States determined by the Secretary of Defense as being critical to national security, from a threat or aggression against the United States and permits the Secretary of Defense to provide funding to the States for that purpose. Since the Posse Comitatus Act (PCA), discussed supra, does not apply to the Guard in state status, use of the Guard under this authority avoids PCA restrictions on utilization of the military for law enforcement purposes. Figure 25 below provides a side by side comparison of the status parameters associated with National Guard personnel operating on state active duty, under Title 32 authority and under Title 10 U.S.C.

¹¹ “Under regulations to be prescribed by the Secretary of the Army or Secretary of the Air Force...a member of the National Guard may (1) without his consent, but with the pay and allowances provided by law; or (2) with his consent, either with or without pay and allowances; be ordered to perform training or other duty in addition to that prescribed under subsection (a). Duty without pay shall be considered for all purposes as if it were duty with pay.”

¹² Knapp, Lawrence, Specialist in National Defense, Foreign Affairs, Defense, and Trade Division, Congressional Research Service, CRS Report for Congress, “Reserve Component Personnel Issues: Questions and Answers”, updated January 18, 2006, pp. CRS-17 to CRS -18.

¹³ 32 United States Code § 112

COMPARISON OF DUTY STATUSES FOR NATIONAL GUARD PERSONNEL

	State Active Duty	Title 32	Title 10
Command & control ¹²	State Governor	State Governor	Federal President
Who performs duty	Federally organized NG	Organized NG in service of US ¹	AC ⁸ , RC and National Guard of US ¹
Where duty performed	IAW state law	CONUS	Worldwide
Pay	IAW state law	Federal pay & allowances	Federal pay & allowances
Federal reimbursement	IAW Stafford Act ² or Cooperative Agreement ¹¹	N/A personnel costs paid by Federal funds	N/A personnel costs paid by Federal funds
Tort immunity	IAW state law	FTCA ⁶	FTCA ⁶
PCA³ application	No	No	Yes
USERRA⁴	No, IAW state law	Yes	Yes
SSCRA⁵	No, IAW state law	No	Yes
Mission types	IAW state law	IDT, AT, state AGR & other Federally authorized	ODT, ADT, AGR & as assigned, subj. to PCA
Discipline	State military code	State military code	UCMJ ⁷
Federal retirement points	No	Yes	Yes
Other benefits	IAW state law	Federal	Federal
Medical	IAW state law	Federal	Federal
Disability	IAW state law	Federal	Federal
Involuntary order to duty	IAW state law	Yes ⁹	Yes ¹⁰
Voluntary order to duty	IAW state law	Yes	Yes

Figure 25

32 USC § 502(f) provides:

“Under regulations to be prescribed by the Secretary of the Army or Secretary of the Air Force, as the case may be, a member of the National Guard may-

- (1) without his consent, but with the pay and allowances provided by law; or
- (2) with his consent, either with or without pay and allowances;

be ordered to perform training or other duty in addition to that prescribed under subsection (a). Duty without pay shall be considered for all purposes as if it were duty with pay.”

¹USC §§ 3062(c) and 8062(c)

²Stafford Act (42 USC § 5121) for disaster-related activities

³Posse Comitatus Act (18 USC § 1385)

⁴Uniformed Services Employment and Reemployment Rights Act (38 USC §§ 4301-4333)

⁵Soldiers and Sailors Civil Relief Act (50 USC App. §§ 500-548, 560-591)

⁶Federal Tort Claims Act (28 USC §§ 2671-2680)

⁷Uniform Code of Military Justice (10 USC §§ 800-946)

⁸Active component

⁹32 USC §502(f)(1)

¹⁰Under Presidential Reserve Call-up (10 USC § 12304); partial mobilization (10 USC § 12302); or full mobilization (10 USC § 12301(a))

¹¹Cooperative agreement if to perform an authorized National Guard function

¹²See 10 USC § 315, 325

Federal Reserve Restructuring Initiative

The Federal Reserve Restructuring Initiative (FRRRI) is the driving force behind Army Reserve transformation. Corresponding to the Army Campaign Plan (ACP), FRRRI embraces the Army Vision of People, Current Readiness, and Future Forces. The objective of the initiative is a properly manned, trained, equipped, and ready Army Reserve. An Army Reserve that is resilient and responsive to rapidly changing national and international security environments.

In order to achieve this goal, the Army Reserve has identified six concurrent intermediate objectives that must be accomplished. These objectives are referred to as the “Six Imperatives”. When realized these imperatives converge simultaneously into the Army Reserve of the future. The six imperatives are reengineering the mobilization process, transforming command and control, restructuring units, improving human resources, building a rotational-based force, and improving individual support to combatant commanders.

The first imperative recognizes that the current and foreseeable global strategic environment no longer allows the luxury of lengthy mobilization periods to prepare prior to deployment. Adapting to these rapidly changing global security conditions, the Army Reserve intends to mirror the Active component deployment paradigm of “train-alert-deploy”.

The Army Reserve launched a two pronged attack to secure the second imperative of revamping and revitalizing its command and control structure. One avenue of advance reduces, reorganizes, and renames the Regional Readiness Commands (RRCs). Ten RRCs are restructuring and consolidating into four Regional Readiness Sustainment Commands (RRSCs) to elevate efficiency and effectiveness. A second axis of attack to enhance command and control establishes the first ever Trainees, Transients, Holders, and Students (TTHS) account in the Army Reserve. Setting up a TTHS account provides the Army Reserve a powerful tool to identify, track, and manage soldiers not qualified to deploy. The TTHS account should also provide a more accurate picture of Army Reserve readiness and where readiness improvement efforts should be directed.

Imperative number three addresses the significant issue of force structure and more specifically the “number, type, and composition” of Army Reserve force structure. Primarily a combat support and combat service support force, the Army Reserve is assessing its existing structure mix to ensure that it maintains, trains, and equips the optimum mix of support forces required by the combatant commands both to prosecute the ongoing war on terrorism and for future engagements in their theater of operations.

To advance the fourth imperative of improving human resources the Army Reserve has adopted the novel approach to contemporize military personnel categories known as the “continuum of service” proposed in the QDR 2001 directed study entitled “Review of Reserve Component Contributions to National Defense”. The continuum acknowledges the correlation between military service and individual life experiences and provides the opportunity to participate interchangeably between active and reserve duty as personal

circumstances and interest allow. The spectrum of service runs the gamut from very minimal day to day formal association to dedicated full time professional involvement with a number of intermediate levels of participation between the two. Utilizing the continuum of service approach to personnel management provides the Army Reserve the potential to enhance retention, realize greater return on personnel investment, and facilitates entry into the “civilian labor market”.

The central feature of Army Reserve transformation and the keystone effort associated with reconstituting Army Reserve force structure is the fifth imperative to “build a rotational-based force”. Energized by the Army’s focus on military operations abroad, the Army Reserve is developing the “Army Reserve Expeditionary Force” (AREF). AREF is a management response to the dramatic escalation in Reserve Component utilization from a “Strategic” Reserve to an “Operational” Reserve. The Army Reserve is assembling “force packages” of similar units tailored and designed to support rotational overseas deployments. AREF structure has the dual benefit of reducing the optempo imposed rotational stress on the Active force while providing deployment predictability for Reserve Soldiers, their families, and civilian employers.

AREF is an Army Reserve management structure designed to inculcate and effectuate the Army focus on expeditionary and campaign quality forces. Similar to the Army’s force generation (ARFORGEN) model, AREF is a five year closed end sequential architecture to form or reform, man, train, equip, and sanction Army Reserve units for deployment (Figure 26)¹⁴. In theory, AREF’s synchronous five year flow of force management functions should produce operationally ready Army Reserve units in support of Active units on an indefinite basis. A concomitant benefit of the AREF model is predictability. The defined cyclical nature of the paradigm provides advanced notice of deployment to the Soldier, the Soldier’s family and the Soldier’s employer permitting appropriate time for planning and preparation.

The sixth and final imperative is the commitment to “improve individual support to Combatant Commanders”. The global strategic environment today, and for the foreseeable future, demands, not only expeditionary and campaign quality rapidly deployable modularized units, but also places a premium on individuals with unique or specialized skills. Cognizant of this requirement, the Army Reserve constituted an “Individual Augmentee (IA) Program” designed to satisfy combatant commander requisite staff augmentation as substantiated by the Worldwide Individual Augmentation System (WIAS).

¹⁴ Army Reserve Posture Statement 2005, “Toward an Expeditionary Future, The Army Reserve Rotational Concept and the AREF”, p.8.

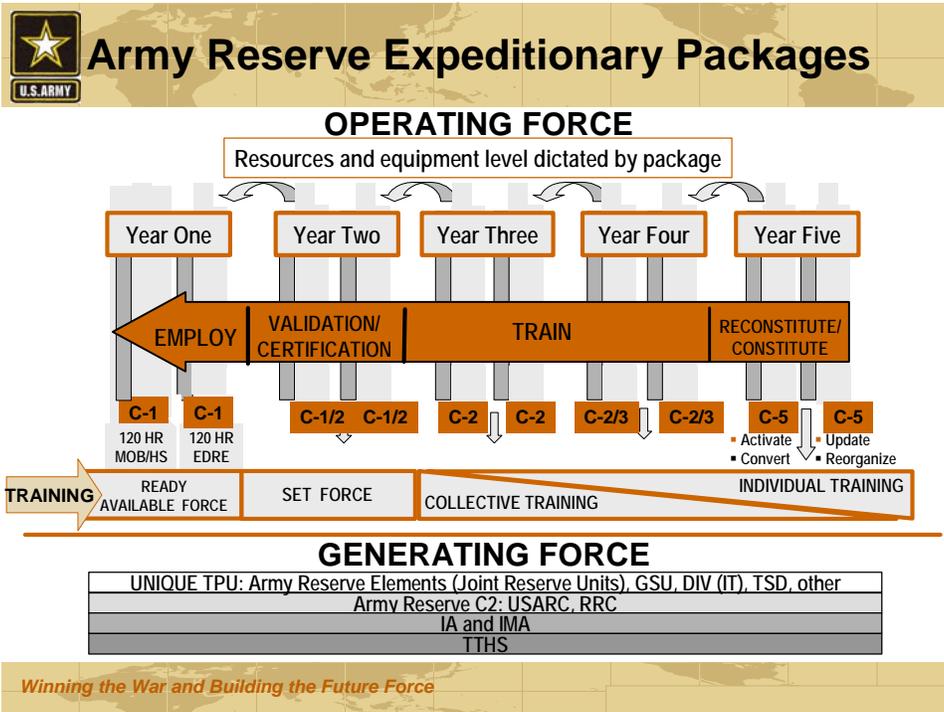


Figure 26

The Army National Guard has also developed a mission model to provide predictability for its Soldiers. The ARNG cyclical pattern as seen in Figure 27¹⁵ incorporates Homeland Defense (HLD), Homeland Security (HLS), and State responsibilities in conjunction with training and federal deployment operations.



Figure 27

Full-Time Support to the Reserve Components¹⁶

FTS to the RC includes five distinct personnel classifications – Active Guard and Reserve (AGR), Military Technicians (Dual Status) (MT), Active Component personnel for duty with

¹⁵ National Guard 2005 Posture Statement, Army National Guard, “Transformation for the 21st Century, Predictability for Our Soldiers”.

¹⁶ Department of Defense Directive (DoDD) 1205.18, SUBJECT: Full-Time Support (FTS) to the Reserve Components, May 25, 2000.

the Reserve Components, Non-Dual Status Technicians (NDST), and civilian personnel. AGRs are Reserve Component personnel serving on either Title 10 USC active duty or Title 32 USC full-time National Guard duty for 180 continuous days or more. MT (Dual Status) are civilians employed by a Military Department who as part of their employment contract agree to serve in a Reserve Component in a position related to their technician position responsibilities. AC FTS are personnel designated by “their respective service to provide advice, liaison, management, administration, training, and support.” NDST is a civilian employment category that does not require membership in a Reserve Component as a condition of employment. The last FTS classification includes federal civilians employees (CIV) hired “to provide administration, training, maintenance, and recruiting support to the Reserve Components”. As with the NDST classification, membership in a Reserve Component is not a prerequisite for employment or continued employment in this category.

Full-time support personnel are “assigned to organize; administer; instruct; recruit and train; maintain supplies, equipment, and aircraft; and perform other functions required on a daily basis in the execution of operational missions and readiness preparation.” FTS is absolutely essential to achieve AC/RC integration and to ensure that the Reserve Components are completely capable of executing their assigned missions. With realization of the vital nature of FTS as the catalyst, a mutual agreement was reached among the Army, Army Reserve, and the Army National Guard to incrementally achieve the validated minimum essential FTS requirements for the Army’s Reserve Components by FY 2012. Figures 28¹⁷ and 29¹⁸ identify the Army National Guard and Army Reserve FY 03 authorized, minimum essential, and total FTS requirement respectively.

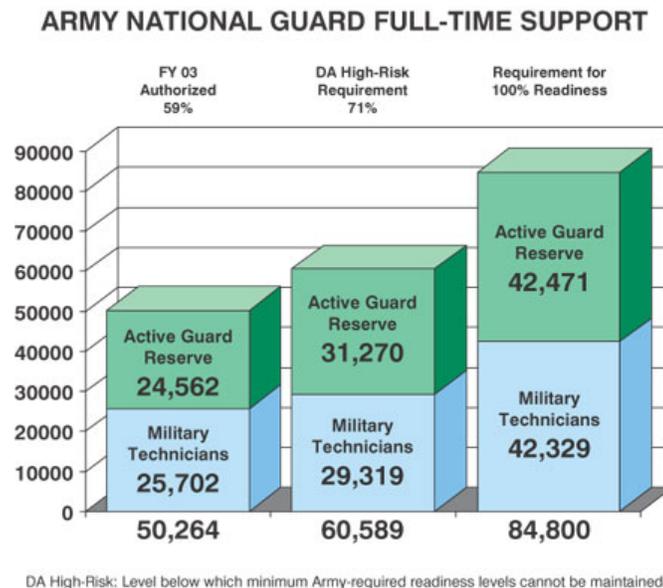
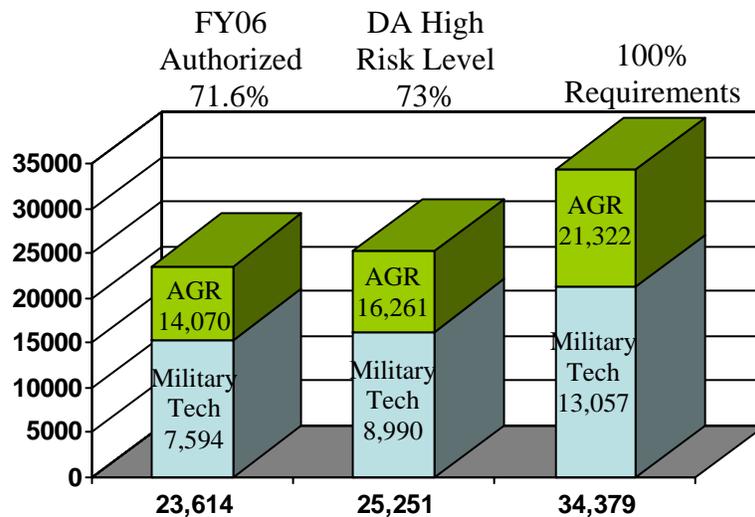


Figure 28

¹⁷ National Guard 2005 Posture Statement, Army National Guard, op. cit., “Homeland Defense, Domestic Operations, Army National Guard Full Time Support”.

¹⁸ Provided by Office of the Chief Army Reserve – Full Time Support (OCAR-FTS), January 26, 2006.

Army Reserve Full-Time Support



DA High Risk: Level below which minimum Army-required readiness levels cannot be maintained

Figure 29

Utilization of the Reserve Components Past, Present, and Future

Post World War II, within the Cold War scenario, the Reserve Components assumed a “*Strategic Reserve*” role that was seldom employed. In fact, between 1945 and 1989 involuntary Reserve call ups occurred a total of only four times – the Korean War, the Berlin Crisis, the Cuban Missile Crisis, and the Vietnam War/U.S.S. Pueblo Crisis.¹⁹ This “force of last resort” characterization relegated the Reserve Components to a low priority for resources. As a consequence the Reserve Components were under resourced, under equipped, and under trained. This, in turn, made RC readiness suspect. This suspicion clearly manifest itself during Operations Desert Shield and Desert Storm, 1990-1991, when the 48th Brigade of the Army National Guard was somewhat reluctantly mobilized and finally certified to deploy the day that combat operations ended.

Use of the Reserve Components both in terms of operating tempo and type of operation has changed dramatically over the last 15 years. Post Cold War, the Reserve Components have been involuntarily called up a total of six times. Reserve Component utilization under these activations encompassed the gamut of military missions including combat operations, peacekeeping, nation building, homeland security/defense, and the detainee mission at Guantanamo Bay Cuba.²⁰ Since the September 14, 2001 Declaration of Emergency initiating “partial mobilization”²¹, more than half a million Reserve Component Soldiers have been called up involuntarily for Operation Noble Eagle, Operation Enduring Freedom, and Operation Iraqi Freedom.²² Figure 30²³ shows the number of Reserve Component Soldiers mobilized and on active duty by month from September 2001 to September 2005.

¹⁹ Knapp, Lawrence, Op. Cit., p. CRS-8.

²⁰ Ibid., pp. CRS-8 to CRS-9.

²¹ See section on Mobilization Statutes p. 16 supra and Title 10 USC § 12302.

²² Knapp, op cit, pp. CRS-8 to CRS-9.

Clearly, the Reserve Components are no longer a “Strategic Reserve”. In deed, a strong argument can be made that they are no longer a force in reserve at all. The current characterization that appears to have been adopted by the Department of Defense is “*Operational Reserve*”, but even this nomenclature adjustment does not adequately or accurately convey the Reserve Components’ contribution to ongoing global strategic operations.

The Quadrennial Defense Review Report (QDR) released on 3 February 2006 mandates an “*operationalized*” Reserve Component to provide greater access to and more rapid employability of Reserve units and individuals. In order to effectuate the “Operational Reserve” concept, the QDR sets forth five specific initiatives that the Department of Defense will pursue. First, in order to enhance utilization of the Reserve Components, DoD will request that Congress amend Title 10 USC § 12304 (Presidential Reserve Call Up Authority)²⁴ to increase the active duty call up period from 270 days to 365 days. Next, special attention will be directed toward enhancing Reserve Component utilization for homeland defense and support to civil authorities. Third, legislative relief will be sought from the limitation in Title 10 USC § 12304 prohibiting Reserve call up under that authority for “serious natural or manmade disaster, accident or catastrophe.” Fourth, DoD will permit Reserve Component members volunteering for active duty with little advanced notice to continue serving within higher headquarters organizations in an augmentation capacity for longer timeframes. And lastly, the Department of Defense will designate certain Selected Reserve category units for concentrated training preparation intended to reduce mobilization to deployment time.²⁵

²³ Assistant Secretary of Defense for Reserve Affairs [ASD (RA)] briefing entitled “Utilization of the Reserve Components – Mobilization”, January 27, 2005.

²⁴ See section on Mobilization Statutes p. 16 supra.

²⁵ 2006 Quadrennial Defense Review Report, “Developing A 21st Century Total Force, Reconfiguring the Total Force”, pp. 76-77, February 6, 2006.

Mobilization of the Reserve Force

(ONE/OEF/OIF)

Number of RC members on active duty - mobilized in support of ONE/OEF/OIF - By Month

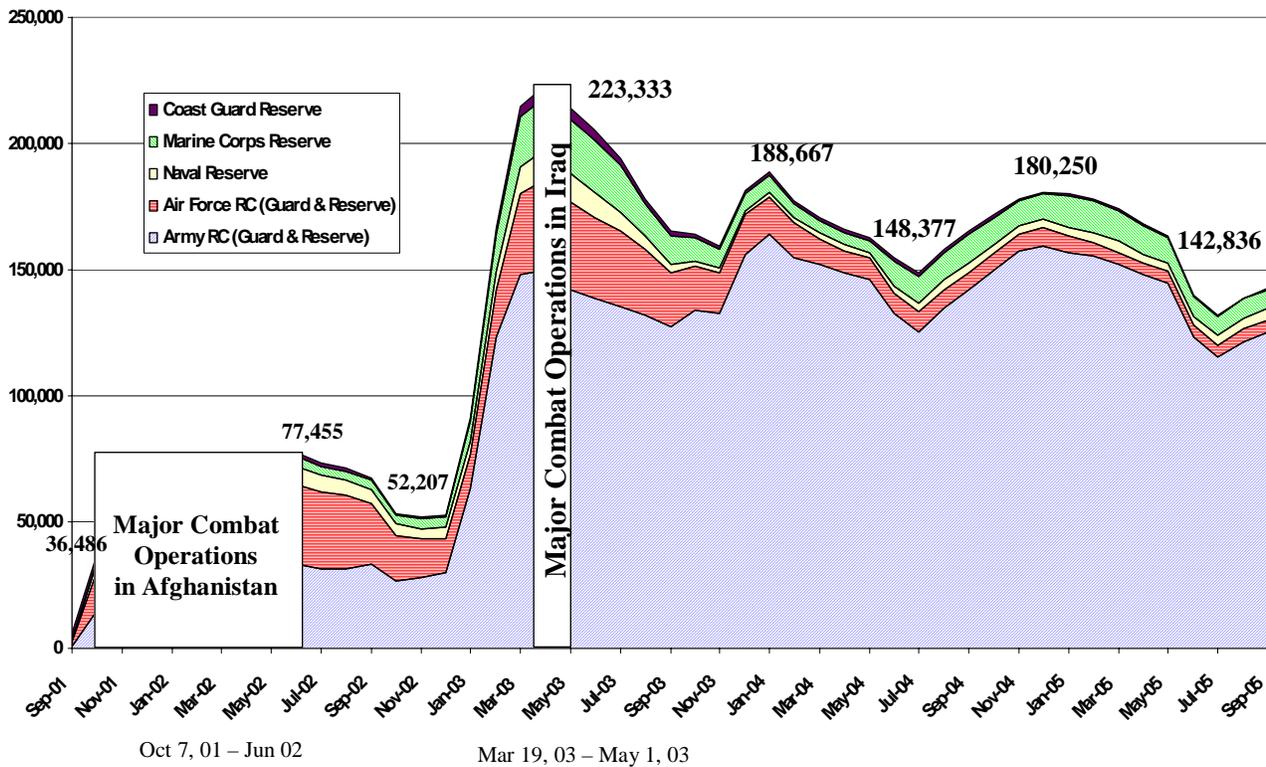


Figure 30

Stability, Security, Transition, and Reconstruction (SSTR) Operations: RC Role

On December 7, 2005 President Bush signed National Security Presidential Directive/NSPD-44 entitled “Management of Interagency Efforts Concerning Reconstruction and Stabilization”. The stated purpose of the NSPD is the enhancement of United States security by providing stabilization and reconstruction aid to countries or areas of the world in jeopardy of, engaged in, or emerging from armed hostilities or internal unrest. The Directive pronounces that it is United States policy, in conjunction with other nations and institutions, “to promote peace, security, development, democratic practices, market economies and the rule of law” in order to prevent territory of weakened or collapsing governments from becoming havens or sanctuaries for organizations that threaten United States security.

On November 28, 2005 Acting Under Secretary of Defense Gordon England signed Department of Defense Directive (DoDD) 3000.05 SUBJECT: Military Support for Stability, Security, Transition, and Reconstruction (SSTR) Operations. The purpose of the Directive is to guide the Department of Defense’s involvement in SSTR. The Directive also announces DoD policy to be that “Stability operations are a core U.S. military mission that the Department of Defense shall be prepared to conduct and support” and that “shall be given priority comparable to combat operations”.

At a January 18, 2006 press conference Secretary of the Army Francis Harvey announced that the number of planned Army National Guard Brigade Combat Teams (BCT) would be reduced by a figure of six from 34 to 28 and that the manpower would be restructured to combat support units such as military police, engineer, chemical, air defense, and civil affairs units.

These three events taken together beg a very important question – What will be their collective impacts on the Army’s Reserve Components? From a force structure point of view the answer to this question seems self-evident. SSTR missions are for the most part conducted by combat support and combat service support units. The majority (54% of combat support and 68.5% of combat service support) of these types of forces are currently resident in the Reserve Components (Figure 31)²⁶. Therefore, notwithstanding the AC/RC rebalance initiative, the Reserve Components will be responsible for a significant percentage, if not the majority, of SSTR missions.

Total Army Percentage Distribution of Combat, Combat Support, and Combat Service Support Units

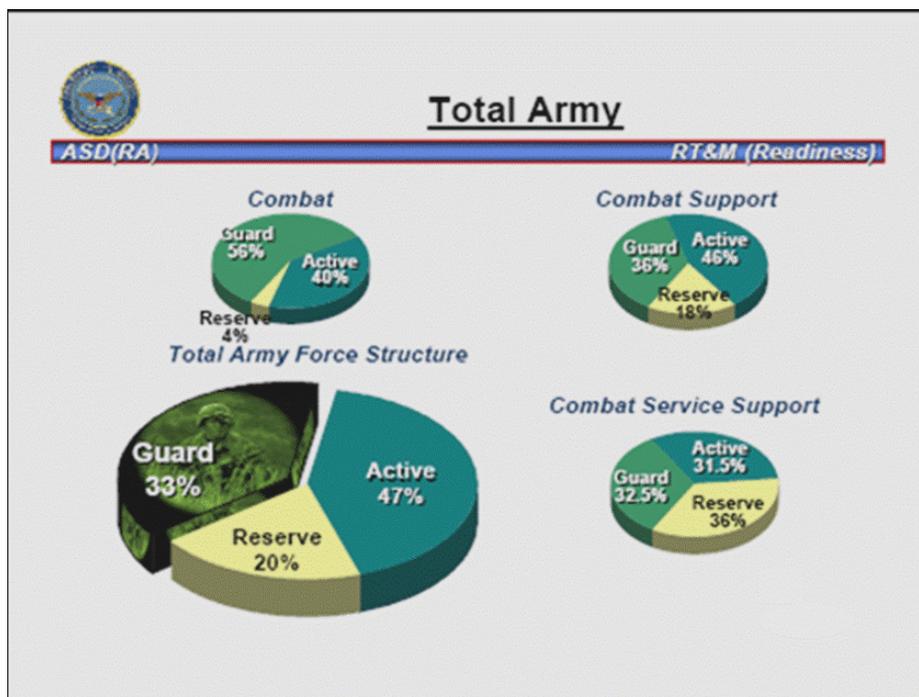


Figure 31

The stabilization and reconstruction (S&R) force distribution in Iraq at the end of major combat operations clearly supports this contention (Figure 32 and Table 3). Considering the current operational load for the Reserve Components (Figure 33)²⁷, this additional mission raises serious RC utilization issues that must be addressed. Can the Reserve Components be

²⁶ Assistant Secretary of Defense for Reserve Affairs [ASD (RA)] briefing entitled “OSD/RA Total Force Briefing”, January 3, 2005.

²⁷ Assistant Secretary of Defense for Reserve Affairs [ASD (RA)] briefing entitled “Utilization of the Reserve Components – Mobilization”, January 27, 2005.

over utilized? If so, what are the potential consequences? Are the Reserve Components appropriately resourced and trained for their assigned responsibilities? If not, should the mission load be tailored to the level of resources and training provided to the Reserve Components or should resources and training opportunities be increased to the level of responsibility carried by the Reserve Components? Is the nation ready and willing to accept the markedly different paradigm of an “Operationalized” Reserve force? Could an increased preemptive federal mission requirement for the National Guard lead to serious command and control issues between the federal government and the States? These issues and others require serious attention and analysis as the Reserve forces move farther and farther away from the Strategic Reserve role and into an operational mode.

U.S. Army S&R Force Types In Theater at the End of Major Combat Operations (May 1, 2003) Total: 37,350²⁸

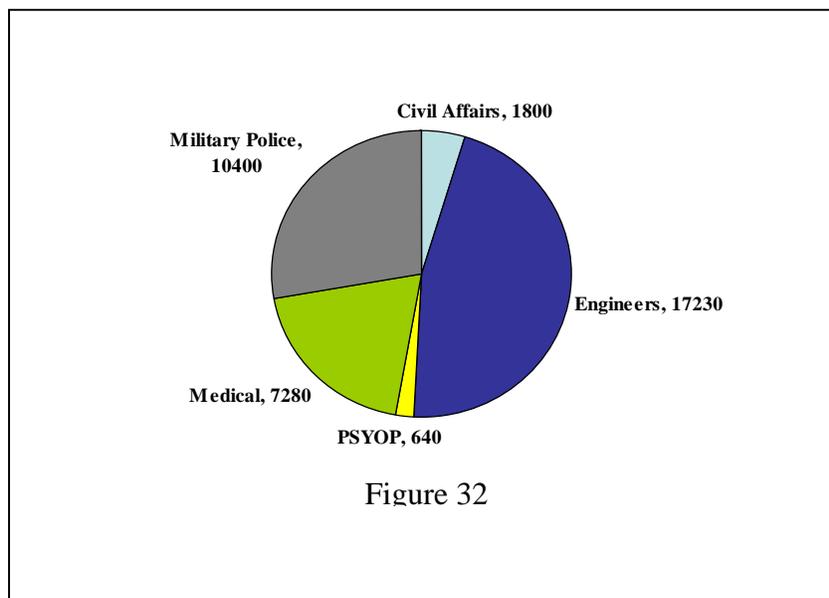


Table 3: Reserve Component Contribution to S&R Force Types in Iraq (May 1, 2003)²⁹

Type	Percent RC
Military Police	59
Civil Affairs	98
Engineers	46
Medical	35
PSYOP	98

²⁸ Transforming For Stabilization and Reconstruction Operations, Chapter 5, “Rebalancing the Active/Reserve Mix”, p. 79, eds. Hans Binnendijk and Stuart E. Johnson, The Center for Technology and National Security Policy, National Defense University Press, Washington, D.C., April 2004.

²⁹ Ibid. p.79.

Five Categories of RC Contributions

1. DOMESTIC EMERGENCIES	Response to forest fires, floods, hurricanes, tornadoes, riots, bombings, etc. (federal or state funded).
2. COUNTER-DRUG OPERATIONS	Support to the counter-drug effort.
3. EXERCISE SUPPORT	All Service or CINC exercises, both CONUS and OCONUS. - Examples: ULCHI FOCUS LENS, REFORGER, LOGEX, GOLDEN SWORD, etc. - Excludes RC unique exercises.
4. CINC / SERVICE SUPPORT	All support provided to assist the AC accomplish a mission, or reduce AC PERSTEMPO / OSTEMPO. - Includes named operations: e.g., DENY FLIGHT, PROVIDE COMFORT, SOUTHERN WATCH, etc. - Includes other support actions such as, Partnership for Peace program, BRAC closure efforts, installation and staff support, IMA support, etc.
5. MOBILIZATIONS	PSRC or mobilization actions. Specifically the following: - Desert Shield / Storm (Kuwait / Iraq) - Uphold Democracy (Haiti) - Joint Endeavor (Bosnia) - Desert Thunder (Iraqi Crisis -Persian Gulf) - Allied Force (Kosovo) - Noble Eagle / Enduring Freedom / Iraqi Freedom

Figure 33³⁰

Commission on the National Guard and Reserves³¹

The decade of the 1990's saw unprecedented mobilization of the United States Reserve Components. Between Desert Shield/Desert Storm and September 11th, 2001, some 400,000 Guard and Reserve Soldiers were called to active duty. But that was just the beginning, post September 11th to date approximately 445,000 Guard and Reserve Soldiers have been mobilized.

Currently, our Selected Reserve (see Reserve Categories p. 14 et seq. supra) numbers about 829,000. By 1 November 2005, 382,424 Selected Reserve men and women or 46% of the category had served on active duty. You would have to go back to the Korean War more than half a century ago to find comparable statistics.

The first half of the first decade of the 21st century has seen a “utilization” transformation of the Reserve Components that has been nothing short of spectacular. From a force held for over 200 years in “Strategic Reserve”, the Reserve Components have transitioned to an “Operational Reserve” in less than 5 years.³²

The pace of global strategic operations since September 11th, 2001 has provided little time to thoroughly examine and analyze this dramatic shift in employment of the Reserve Components. The exigencies of the moment have provided little time to catch our breath

³⁰ Border Security is now a sixth category on this list. See <http://www.whitehouse.gov/news/releases/2006/05/20060515-8.html>

³¹ See <http://www.cngr.gov>

³² See Quadrennial Defense Review Report February 6, 2006, “A Continuum of Service”, pp.76-77.

<http://www.dod.mil/pubs/pdfs/QDR20060203.pdf>

much less the time to determine the impacts of using our “citizen soldiers” to effectuate United States foreign policy, or to ascertain how this sea state change in employment of Reserve Forces will affect the traditional relationship between the Active and Reserve Components, or to discern possible consequences to the fundamental constitutional relationship between the federal government and the States as a result of continued extraterritorial utilization of the National Guard? Not to mention determining the impacts on Reserve Component Soldiers and their families.

These important questions, as well as others, energized the United States Congress to mandate a structured, autonomous, detailed appraisal of the National Guard and the Reserves. The first such comprehensive assessment of the Reserve Components in more than 50 years. The National Defense Authorization Act for FY 2005 established the “Commission on the National Guard and Reserves” (CNGR).

The Commission consisting of 13 members, 3 each appointed by the chairmen of the Senate and House Armed Services Committees, 2 each appointed by the ranking minority member of the Senate and House Armed Services Committees, and 3 each appointed by the Secretary of Defense with the Secretary designating a Chairman from the appointees, has a year long charter to assess the Reserve Components and propose necessary “changes in law and policy to ensure that the Guard and Reserves are organized, trained, equipped, compensated, and supported to best meet the national security requirements of the United States”. The threshold issue for the Commission to address is one of function as opposed to form that is “what are the appropriate roles and purposes of the Guard and Reserves in meeting the national security needs of the United States?”

The Commission held its initial hearing in March 2006 and was immediately challenged to consider a very difficult and controversial issue. The Senate National Guard Caucus co-chaired by Senators Leahy and Bond presented the Commission with a legislative proposal to elevate the Chief, National Guard Bureau to the four star General Officer level with a seat on the Joint Chiefs of Staff. The Commission will address many other challenging issues between now and March 2007 when its final report is due. We, however, will not have to wait that long to learn the initial findings of the Commission. The implementing statute requires the Commission to submit a preliminary report to the Senate and House Armed Services Committees within 3 months of their first meeting. By June 2006 we should have a good indication of the Commission’s assessment approach and the direction they are headed.

State Defense Forces (aka State Guards, State Military Reserves, or State Militias)

Article I, Section 10, clause 3 of the United States Constitution prohibits States from maintaining “Troops” during peacetime without congressional approval. The United States Congress has seen fit to provide statutory approval for the States, Territories, and the District of Columbia to maintain National Guard and State Defense forces (SDF).³³ Title 32 U.S.C. Section 109 simultaneously affirms the constitutional prohibition on States maintaining

³³ 32 U.S.C. § 109 Maintenance of other troops.

troops in peacetime and authorizes the establishment and maintenance of State National Guard and State Defense Forces.

SDF trace their point of origin back to World War I when they were established as much needed backfill for federalized and deployed State National Guard forces. SDF filled a critical vacuum on the “home front” by assuming essential state mission responsibilities (disaster relief, “coastline and infrastructure” security, and support to civil authorities) of the deployed State National Guard forces. Similarly, during World War II, some 200,000 State Defense Forces substituted for federalized State National Guard. In 1980 the Cold War possibility that State National Guard, as the Strategic Reserve for the Active Force, might once again be mobilized and deployed to fight a European war rekindled support for SDF. Today SDF number about 14,000 members and are actively engaged supporting government authorities in more than 20 States.

Most recently, Hurricane Katrina drew attention to State military forces. SDF in Louisiana, Mississippi, Alabama, Texas, Georgia, Maryland, and Virginia were activated in the wake of Katrina to support State National Guard, provide security, and operate shelters. Working without pay, 100 Virginia SDF volunteers secured armories and assisted deployment thereby freeing up more Virginia National Guard soldiers for Gulf Coast duty. Impressively, the State of Maryland provided an SDF “medical team” of 81 personnel to assist the State of Louisiana. This demonstrated indispensable requirement for SDF during a catastrophic natural disaster that overwhelmed local responders from the start coupled with the high probability that State National Guard forces will continue to be deployed overseas generated the introduction of H.R. 3401, a bill entitled “The State Defense Force Improvement Act of 2005”, in the House of Representatives on 21 July 2005.

H.R. 3401 would “amend Title 32 (National Guard supra pp. 34-35) United States Code to improve the readiness of State defense forces and to increase military coordination for homeland security between the States and the Departments of Defense and Homeland Security.” Specifically, the heading for Title 32 U.S.C. § 109 would be changed from “Maintenance of other troops” to “Maintenance of other troops: State defense forces” and the statute altered to acknowledge SDF as an essential military element for homeland security and to establish a direct relationship of cooperation and support between State SDF and the Departments of Defense and Homeland Security. DoD would be authorized to provide “equipment and facilities” in support of SDF training to include the transfer of “excess” equipment. SDF training with DoD and HLS would be discretionary on the part of the individual States. However, DoD funding for SDF would not be permitted and personal injury as well as consequent damage liability would be a sole responsibility of the States.

Army Reserve Components – The Conundrum in the Road Ahead

(Food for Thought – For Critical Force Management Thinking)

Instead of closing this primer on Reserve Components with a summary or conclusions, we end with a question intended to stimulate continued critical force management thinking and

rigorous discussion. The question, looming over and encompassing all the topics discussed, in its broadest formulation is as follows - What is the proper role and organizational structure for a military force for the United States? Arguably, we have been struggling with this function and form question for more than two hundred years. However, the discussion, let alone the resolution, of that issue is far beyond the compass of this primer and is perhaps one of those intractable questions that defy solution and only allow themselves to be managed with difficulty. Therefore, for purposes of germaneness to this primer's subject matter, let's narrow the scope of the inquiry to the Army's Reserve Components. The question then becomes - **What is the proper role and organizational structure for the Reserve Components of the United States Army?** (You didn't really think the question was going to be any easier to deal with by narrowing the scope now did you?) Along with the questions posed at the outset of this primer, please come prepared to discuss this issue during the RC class for which this primer is a reading assignment. As you develop your thoughts, reasoning, conclusions, and supporting justification for your answer to this question here are some points to ponder.

First, consider the military responsibilities (roles and missions i.e. functions) currently assigned to the Army RC (see Figures 33 "Five Categories of RC Contributions" and 34 "21st Century Security Requirements").

1. Do we not expect and plan for Army Reserve Components to be operationally capable across the full "Spectrum of Operations"?
2. Are not the current rotational peacekeeping missions in the Balkans and the Sinai solely Reserve Component missions?
3. Will the Army RC have significant HLS and HLD responsibilities? (See the Title 32 discussion above).
4. Doesn't the ARNG have both Federal and State missions?
5. Are not disaster response and consequence management RC missions?
6. As discussed earlier under the rebalancing issue, are not 57% of Army combat structure, 63% of Army combat support structure, and 67% of Army combat service support structure in the Army Reserve and the Army National Guard?
7. Also discussed previously, are not 97% of the Army's civil affairs units, 72% of the Army's psychological operations units, 72% of Army hospitals, and 70% of the Army's medical groups in the Army Reserve.
8. Do not the Army Reserve Components currently shoulder 30-40% of the responsibility for OIF?
9. Are points 1 through 8 intended or unintended consequences of the Abrams Doctrine?

Then, secondly, once you have considered the nine points above, consider whether or not the Army National Guard and the United State Army Reserve are structured and equipped (i.e. formed) to execute those responsibilities.

21st Century Security Requirements

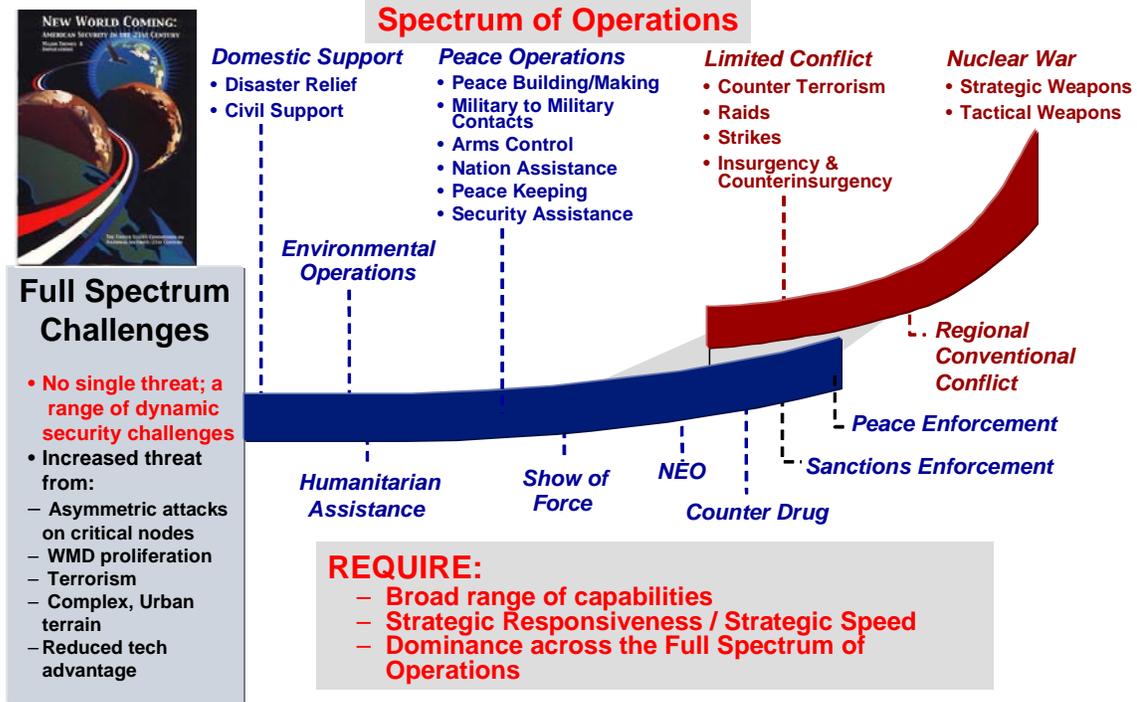


Figure 34

Appendix A – Acronyms:

- A/M/TH-6 – Utility or Attack Helicopter (Little Bird)
- AC – Active Component
- ACP – Army Campaign Plan
- ACS (RA) – Assistant Chief of Staff for Reserve Affairs
- ADCS – Assistant Deputy Chief of Staff
- AFHP – Armed Forces Health Program
- AGR – Active Guard and Reserve
- AKO – Army Knowledge on Line
- ANG – Air National Guard
- Appn – Appropriation
- AR – Army Reserve
- ARCOM – Army Reserve Command
- AREF – Army Reserve Expeditionary Force
- ARFPC – Army Reserve Forces Policy Committee
- ARNG – Army National Guard
- ARRTC – Army Reserve Readiness Training Command
- ARSTAFF – Army Staff
- ASA/MRA - Assistant Secretary of the Army for Manpower and Reserve Affairs

ASD – Assistant Secretary of Defense
ASD (RA) – Assistant Secretary of Defense for Reserve Affairs
ASN/MRA – Assistant Secretary of the Navy for Manpower and Reserve Affairs
Bde – Brigade
Bn – Battalion
BRAC – Base Realignment and Closure
C, NGB – Chief, National Guard Bureau
CA – Civil Affairs
CAR – Chief Army Reserve
CG – Commanding General
CIV – Federal Civilian Employee
CJCS – Chairman Joint Chiefs of Staff
CMD or Cmd – Command
CNGR – Commission on the National Guard and Reserves
CNO – Chief of Naval Operations
CoC – Council of Colonels
CRD – Chemical Reconnaissance Detachment
CSA – Chief of Staff Army
CSAF – Chief of Staff Air Force
D, ARNG – Director Army National Guard
DAS – Director Army Staff
DDAA – National Defense Authorization Act
DEP – Delayed Entry Program
DIMA – Drilling Individual mobilization Augmentee
DIV (IT) – Institutional Training Division
DIV or Div – Division
DOD or DoD – Department of Defense
DoDD – Department of Defense Directive
DPAE – Director Program Analysis and Evaluation
ECC – Executive Communication Center
EMAC – Emergency Management Assistance Compact
ESGR – Employer Support of the Guard and Reserve
FEMA – Federal Emergency Management Agency
FORSCOM – Forces Command
FRRI – Federal Reserve Restructuring Initiative
FTS – Full-Time Support
FY – Fiscal Year
GP – Group
HLD – Homeland Defense
HLS – Homeland Security
HQ – Headquarters
HRC – Human Resources Command
IADT – Initial Active Duty Training

IG – Inspector General
IMA - Individual Mobilization Augmentee
ING – Inactive Guard
IRR – Individual Ready Reserve
JCS – Joint Chiefs of Staff
JS – Joint Staff
MH-47 – Modified Helicopter (Chinook)
MH-60 – Modified Helicopter (Pave Hawk)
MOS - Military Occupational Specialty
MT – Military Technician
NCESGR – National Committee for Employer Support of the Guard and Reserve
NDST – Non-Dual Status Technician
NEO – Noncombatant Evacuation Operation
NETCOM – Network Enterprise Technology Command
NG – National Guard
NGB – National Guard Bureau
NORTHCOM – United States Northern Command
NSA – National Security Act
OCLL – Office, Chief of Legislative Liaison
OCSA – Chief of Staff, Army Office of Reserve Affairs
OEF – Operation Enduring Freedom
OGC – Office of the General Counsel
OIF – Operation Iraqi Freedom
OMB – Office of Management and Budget
ONE – Operation Noble Eagle
OPNAV – Office of the Chief of Naval Operations
OPTEMPO – Operating/Operations Tempo
OSD – GC – Office of the Secretary of Defense General Counsel
OSD – Office of the Secretary of Defense
OTJAG – Office of the Judge Advocate General
PCA – Posse Comitatus Act
PRC – Presidential Reserve Call Up
PSYOP – Psychological Operations
QDR – Quadrennial Defense Review
RAIO – Reserve Affairs Integration Office
RC – Reserve Component
RCCC – Reserve Component coordination Council
RFPB – Reserve Forces Policy Board
RGT – Regiment
ROTC – Reserve Officers Training Corps
RRC – Regional Readiness Command
RRC – Regional Readiness Command
RRSC – Regional Readiness Sustainment Command

RRSC – Regional Readiness Sustainment Command
RSG – Regional Support Group
SAD – State Active Duty
SDF – State Defense Forces
SECAF – Secretary of the Air Force
SECARMY – Secretary of the Army
SECDEF or SecDef – Secretary of Defense
SECNAV – Secretary of the Navy
SFG – Special Forces Group
SOCOM – Special Operations Command
SOS – Special Operations Support
SREMAC – Southern Regional Emergency Management Compact
TAA – Total Army Analysis
TPU – Troop Program Unit
TRADOC – Training and Doctrine Command
TSD – Training Support Division
TTHS – Trainees, Transients, Holdees, and students
USAR – United States Army Reserve
USARC – United States Army Reserve Command
USAREUR – United State Army Europe
USARPAC – United States Army Pacific
USC – United states Code
USERRA – Uniformed Services Employment and Reemployment Rights Act
USMC – United States Marine Corps
VCSA – Vice Chief of Staff Army
VOLAR – Volunteer Army
WMD – Weapon (s) of Mass Destruction

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The AFMS Reserve Component Primer is a living document and will be updated periodically in order to maintain currency. Any comments or corrections concerning the Primer are more than welcome and should be forwarded to AFMS c/o John Walsh at jwalsh@afms1.belvoir.army.mil.

Additional Topics Under Consideration for Future Additions:

Reserve/Guard ARFORGEN
Reserve Component Civil Affairs and Psychological Operations
Assistants (Advisors) to CJCS for National Guard and Reserve Matters (NGRM)
All Volunteer Force and the Reserve Components
Legal Protections for Reserve Soldiers on active duty
RC Pay and Benefits
Naval Militia/Reserve

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